

235
A21
M.R.
Reserve



Illinois Information Center
SEP 29 1998
Information Center

1998

Illinois Register

Rules of Governmental Agencies

Volume 22, Issue 39—September 25, 1998

Pages 16,691 - 17,158

Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
<http://www.sos.state.il.us>

published by
George H. Ryan
Secretary of State



Printed on recycled paper

TABLE OF CONTENTS
September 25, 1998 Volume 22, Issue 39

PROPOSED RULES

CHILDREN AND FAMILY SERVICES, DEPARTMENT OF

Interstate Placement Of Children

89 Ill. Adm. Code 32816691

HUMAN SERVICES, DEPARTMENT OF

Admission, Suspension, Expulsion And Discharge Procedures

89 Ill. Adm. Code 75516700

Definition Of Terms

89 Ill. Adm. Code 825, Repeal16715

Definition Of Terms

89 Ill. Adm. Code 75116722

Evaluation And Coordination Of Special Education

89 Ill. Adm. Code 820, Repeal16727

Home And Hospital Programs

89 Ill. Adm. Code 785, Repeal16732

Identification, Evaluation, And Placement Of Exceptional Children

89 Ill. Adm. Code 79516735

Impartial Due Process Hearing

89 Ill. Adm. Code 800, Repeal16749

Impartial Due Process Hearing

89 Ill. Adm. Code 82816754

Non-Academic Programs And Policies

89 Ill. Adm. Code 83016761

Responsibility For Special Education

89 Ill. Adm. Code 760, Repeal16779

Role Of Residential Educational Facilities Operated By The Illinois

Department Of Human Services

89 Ill. Adm. Code 75016783

Rules Of Conduct

89 Ill. Adm. Code 82716792

Sex Equity

89 Ill. Adm. Code 82916809

Special Education Instructional Program

89 Ill. Adm. Code 770, Repeal16821

Special Education Personnel

89 Ill. Adm. Code 810, Repeal16826

Special Education Related Services

89 Ill. Adm. Code 775, Repeal16831

Special Transportation

89 Ill. Adm. Code 81516837

State-Operated Or Private Programs

89 Ill. Adm. Code 790, Repeal16841

Surrogate Parents

89 Ill. Adm. Code 805, Repeal16844

The Establishment And Administration Of Special Education

89 Ill. Adm. Code 765,16848

Therkelsen/Hansen College Loan Fund

89 Ill. Adm. Code 83516863

Vocational Programs

89 Ill. Adm. Code 780, Repeal16869

INSURANCE, DEPARTMENT OF

Annual Privileged Tax

50 Ill. Adm. Code 251016873

Annual Retaliatory Tax

50 Ill. Adm. Code 251516910

Annual State Fire Marshal Tax

50 Ill. Adm. Code 252016926

Fees And Charges

50 Ill. Adm. Code 250516936

General Provisions

50 Ill. Adm. Code 250016946

Overpayments, Refunds, Amendments And Penalties

50 Ill. Adm. Code 252516956

PUBLIC AID, DEPARTMENT OF

Child Support Enforcement

89 Ill. Adm. Code 16016966

Practice In Administrative Hearings

89 Ill. Adm. Code 10416970

SECRETARY OF STATE

Literacy Grant Program

23 Ill. Adm. Code 304016972

Procedures And Standards

92 Ill. Adm. Code 100116989

ADOPTED RULES

TRANSPORTATION, DEPARTMENT OF

Carriage By Public Highway

92 Ill. Adm. Code 17717003

Continuing Qualification And Maintenance Of Packaging

92 Ill. Adm. Code 18017007

Hazardous Materials Transportation: General Information, Regulations

And Definitions

92 Ill. Adm. Code 17117011

Hazardous Materials Table And Hazardous Materials Communications

92 Ill. Adm. Code 17217019

Procedures

92 Ill. Adm. Code 10717023

Shippers General Requirements For Shipments And Packagings

92 Ill. Adm. Code 17317028

Specifications For Packagings

92 Ill. Adm. Code 17817032

Specifications For Tank Cars

92 Ill. Adm. Code 17917042

EMERGENCY RULES

PUBLIC AID, DEPARTMENT OF	
Child Support Enforcement	
89 Ill. Adm. Code 160	.....17046
Practice In Administrative Hearings	
89 Ill. Adm. Code 104	.....17113

AGENCY NOTICES OF MODIFICATION, WITHDRAWAL OR REFUSAL TO PROPOSED RULES

CAPITAL DEVELOPMENT BOARD	
Procurement Practices	
44 Ill. Adm. Code 910, Modification (Emergency)	.....17122

NOTICE OF CORRECTIONS OF NOTICE ONLY

PROFESSIONAL REGULATION, DEPARTMENT OF	
Illinois Dental Practice Act	
68 Ill. Adm. Code 1220	.....17128

NOTICE OF PUBLIC HEARINGS

AGRICULTURE, DEPARTMENT OF	
Animal Diagnostic Laboratory Act	
8 Ill. Adm. Code 110	.....17129
Bovine Brucellosis	
8 Ill. Adm. Code 75	.....17130
Definitions	
8 Ill. Adm. Code 20	.....17131
Diseased Animals	
8 Ill. Adm. Code 85	.....17132
Feeder Swine Dealer Licensing	
68 Ill. Adm. Code 590	.....17133
Hatcheries, Poultry Flocks, And Produce Thereof	
8 Ill. Adm. Code 55	.....17134
Illinois Bovidae And Cervidae Tuberculosis Eradication Act	
8 Ill. Adm. Code 80	.....17135
Illinois Pseudorabies Control Act	
8 Ill. Adm. Code 115	.....17136
Livestock Auction Markets	
8 Ill. Adm. Code 40	.....17137
Livestock Dealer Licensing	
68 Ill. Adm. Code 610	.....17138
Swine Brucellosis	
8 Ill. Adm. Code 100	.....17149
Swine Disease Control And Eradication Act	
8 Ill. Adm. Code 105	.....17140

NATURAL RESOURCES, DEPARTMENT OF	
Nuisance Wildlife Control Permits	
17 Ill. Adm. Code 525	.....17141

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Second Notices Received17142
-------------------------	------------

EXECUTIVE ORDERS AND PROCLAMATIONS

PROCLAMATIONS

98-472	Mr. and Mrs. Forrest Kent Funderburke Day (Revised)	.....17143
98-476	American College of Chiropractic Consultants Month	.....17143
98-477	Chamber of Commerce Week	.....17143
98-478	National Spinal Cord Injury Association Days	.....17143
98-479	Darrell and Ursula Beck Day	.....17144
98-480	Fifth Marine Division Association Day	.....17145
98-481	Jane Addams Hull House Association Month	.....17145
98-482	Minority Enterprise Development Week	.....17146
98-483	5-A-Day "Taste A World of Variety" Week	.....17146
98-484	Guy Anderson Day	.....17146
98-485	Iron Overload Diseases Awareness Week	.....17147
98-486	African Festival of the Arts Days	.....17147
98-487	Landmine Awareness Day	.....17147
98-488	Single Parents Day	.....17148
98-489	Temporary Help Week	.....17148
98-490	Good Neighbor Day	.....17149
98-491	Hispanic Illinois State Law Enforcement Day	.....17149
98-492	Armenian Youth Federation Olympics Day	.....17150
98-493	Harry and Pat Michalski Day	.....17150
98-494	Illinois Judicial Council Day	.....17151
98-495	Metra Week	.....17151
98-496	Wyland's Ocean Challenge of America Day	.....17151
98-497	A Day in Honor of Dr. Glass's Service	.....17152
98-498	Elwood "Woody" Hasemann Day	.....17152
98-499	Mexican Independence Month	.....17152
98-500	Chiropractic Health Care Month	.....17153
98-501	Filipino Friendship Society Day	.....17153
98-502	Pet Memorial Day	.....17153
98-503	Respect Life Week	.....17154
98-504	High Technology Week	.....17154
98-505	Hunting and Fishing Day	.....17154
98-506	Illinois State Great Catfish Cookoff and Murphysboro Barbecue Championship Day	.....17155
98-507	Payroll Week	.....17155
98-508	Y-Me Breast Cancer Day	.....17156
98-509	American Refugee Committee Day	.....17156
98-510	Blindness Rehabilitation Week	.....17156

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meetings, agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 1998

Meter/et Rec'd before 4:30 p.m. on:	Will be in Issue #:	Published on:
July 13, 1998	30	July 24, 1998
July 20, 1998	31	July 31, 1998
July 28, 1998	32	Aug. 7, 1998
Aug. 3, 1998	33	Aug. 14, 1998
Aug. 10, 1998	34	Aug. 21, 1998
Aug. 17, 1998	35	Aug. 28, 1998
Aug. 24, 1998	36	Sept. 4, 1998
Aug. 31, 1998	37	Sept. 11, 1998
Sept. 8, 1998*	38	Sept. 18, 1998
Sept. 14, 1998	39	Sept. 25, 1998
Sept. 21, 1998	40	Oct. 2, 1998
Sept. 28, 1998	41	Oct. 9, 1998
Oct. 5, 1998	42	Oct. 16, 1998
Oct. 13, 1998*	43	Oct. 23, 1998
Oct. 19, 1998	44	Oct. 30, 1998
Oct. 26, 1998	45	Nov. 6, 1998
Nov. 2, 1998	46	Nov. 13, 1998
Nov. 9, 1998	47	Nov. 20, 1998
Nov. 16, 1998	48	Nov. 30, 1998
Nov. 23, 1998	49	Dec. 4, 1998
Nov. 30, 1998	50	Dec. 11, 1998
Dec. 7, 1998	51	Dec. 18, 1998
Dec. 14, 1998	52	Dec. 28, 1998
Dec. 21, 1998	1	Jan. 4, 1999
Dec. 28, 1998	2	Jan. 8, 1999

*Please note: If the state holiday falls on a Monday, the deadline will be 12 noon on Tuesday (the next day).

98-511	German American Days	17157
98-512	Slovenian Woman's Union of America Branch #20 Day	17157

ISSUES INDEX I-1

Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April 17, 1998 - Issue 16: Through	March 31, 1998
July 17, 1998 - Issue 29: Through	June 30, 1998
October 16, 1998 - Issue 42: Through	September 30, 1998
January 15, 1999 - Issue 3: Through	December 31, 1998 (Annual)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Interstate Placement of Children

2) Code Citation: 89 Ill. Adm. Code 328

3) Section Numbers: Proposed Action:

328.1	Amend
328.2	Amend
328.3	Amend
328.4	Amend
328.5	Amend
	Add
328.100	Add
328.110	Add
328.120	Add
328.130	Add
328.140	Add

4) Statutory Authority: Implementing and authorized by the Interstate Compact on the Placement of Children Act [45 ILCS 15]; Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5]; Section 16 of the Child Care Act of 1969 [225 ILCS 10/16] and P. A. 90-28, the Interstate Compact on Adoption Act, effective January 1, 1998.

5) A Complete Description of the Subjects and Issues Involved: These rules set forth requirements for when children are placed across state lines. The Department is proposing amendments to reflect the fact that the Interstate Compact on the Placement of Children now includes all fifty states. A new Subpart is proposed to implement the Interstate Compact on Adoption and Medical Assistance which ensures continued services to families who enter into adoption assistance agreements in Illinois and then move out of State.

6) Will these proposed amendments replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Jerry B. Crabtree
Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe, Station #65
Springfield, Illinois 62701-1498
Telephone: (217) 524-1983
TTY: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking does not affect small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: Not applicable

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized on the two most recent Regulatory Agendas through oversight.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER b: PROGRAM AND TECHNICAL SUPPORT

PART 328
 INTERSTATE PLACEMENT OF CHILDREN

SUBPART A: INTERSTATE COMPACT ON PLACEMENT OF CHILDREN

Section

- 328.1 Purpose
 328.2 Definitions
 328.3 Placement of Illinois Children
 328.4 Placement of Children From Other States
 328.5 Removal of Illinois Children

SUBPART B: INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE

Section

- 328.100 Purpose
 328.110 Interstate Compact
 328.120 Definitions
 328.130 Relocation of Adopted Children from Illinois to Other States
 328.140 Relocation of Adopted Children from ICAMA Party State into Illinois

AUTHORITY: Implementing and authorized by the Interstate Compact on the Placement of Children Act [45 ILCS 15]; Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5]; Section 16 of the Child Care Act of 1969 [225 ILCS 10/16] and the Interstate Compact on Adoption Act [45 ILCS 17/5-1] (see P.A. 90-28).

SOURCE: Adopted and codified at 7 Ill. Reg. 9207, effective August 5, 1983; amended at 22 Ill. Reg. _____, effective _____.

SUBPART A: INTERSTATE COMPACT ON PLACEMENT OF CHILDREN

Section 328.1 Purpose

The purpose of this Subpart ~~these rules~~ is to assure that each child expected to be placed across state lines receives appropriate care, to ensure that both sending and receiving authorities are able to make informed decisions on suitable placements, and to establish appropriate jurisdictional responsibility for placements.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 328.2 Definitions

"Children for whom whom the Department has Legal Responsibility" ~~legal responsibility~~ or "Department Wards", as used in this Subpart Part means children for whom the Department of Children and Family Services has custody or guardianship via court order as well as children whose parent(s) has signed an adoptive surrender with the Department.

"Compact-state"-means-a-state-which-has-enacted-the-interstate-Compact on-the-Placement-of-Children.

"Facility" means a person, group of persons, or corporation caring for children licensed under applicable laws. Facility includes, but is not limited to, child care institution, related or non-related foster family home or group home.

"Interstate Compact on the Placement of Children" is a law, enacted by all 50 most states and the territories of Guam and the Virgin Islands, for the purpose of establishing uniform procedures for handling the interstate placement of children in foster homes, adoptive homes, or other child care facilities.

"Non-Compact-state"-means-a-state-which-has-not-enacted-the-interstate Compact-on-the-Placement-of-Children.

"Placement" as used in this Subpart Part, means the arrangement for the continuing care of a child in a foster or adoptive family home, group home, child care institution, or other child care facility as defined by the Child Care Act of 1969 [225 ILCS 10]. Placements do not include care of a child in a medical facility, a mental health facility, a correctional facility or an educational facility.

"Relative," as used in this Subpart Part, means a person having any of the following relationships to the child: parent; step-parent; grandparent; adult brother or sister; adult uncle or aunt.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 328.3 Placement of Illinois Children

- a) The following is applicable to all Illinois children except those placed under the Indian Child Welfare Act (see Department of Children and Family Services rules, 89 Ill. Adm. Code 307, Indian Child Welfare Services).

- 1) The following entities must submit a request to the Illinois Compact Administrator if they wish to place an Illinois child

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

with a person who resides outside the State of Illinois an out-of-state person:

- A) any person not related, as defined in this Part, to the child;
 - B) any person who does not have legal guardianship of the child;
 - C) a court;
 - D) a public or private agency.
- 2) Prior to placement in another Compact state the Compact Administrator in the receiving state shall have notified the Illinois Compact Administrator, in writing, that the proposed placement does not appear to be contrary to the interests of the child.

- 3) Prior to discharge from placement in another Compact state the Compact Administrator in the receiving state shall have notified the Illinois Compact Administrator, in writing, that the proposed discharge from placement does not appear to be contrary to the interests of the child.

- 4) The sending party (person, court, public or private agency) shall retain jurisdiction over the child concerning all matters related to custody, supervision, and care of the child as if the child had remained in Illinois. Jurisdiction ends when the child is adopted, has reached the age of majority, is self-supporting, is the subject of a court approved subsidized guardianship agreement or is discharged from care.

- 5) The sending party continues to be financially responsible for the child during placement and shall return the child to Illinois if requested to do so in writing by the receiving state.

- b) In addition to the requirements specified above in (a)(1) through (5) the Department, prior to placing Department wards in other states, shall have determined that:

- 1) the applicable court of jurisdiction approves of the placement;
- 2) the placement complies with Department rules, is the best choice to ensure continuity of care for the child, to secure a specialized resource for the child or to maintain proximity to the child's family;
- 3) the benefits of the placement have been considered and weighed in light of the effects of the separation or family reunification;
- 4) the facility is licensed or license-exempt under the receiving state's applicable laws;
- 5) a contractual per diem has been negotiated with the facility;
- 6) the appropriate public agency in the receiving a--non-Compact state has been provided with sufficient information to enable continuing supervision of the placement and has approved the proposed placement.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 328.4 Placement of Children From Other States

- a) A child from another Compact state shall not be placed in Illinois until the Illinois Compact Administrator or designee notifies the Compact Administrator in the sending state that the proposed placement is not contrary to the interests of the child.

- b) The sending person, court, public or private agency shall retain jurisdiction over the child until such jurisdiction ends because the child is adopted, reaches the age of majority, is self-supporting or is discharged from care with the concurrence of the Illinois Compact Administrator or designee.

- c) The sending party shall continue to be financially responsible for the child during placement and shall return the child to the other state if requested to do so by the Illinois Compact Administrator or designee.

- b) A child from a non-Compact state shall be placed in Illinois only with the prior approval of the Department (Ill. Rev. Stat., 19017-ch-237 par. 228). Prior approval shall be granted when the service is appropriate for the child's needs and consistent with the child's permanency goal. The sending person's court or public or private agency in the other state shall retain legal and financial responsibility for the child until the child is adopted, reaches the age of majority, or is discharged from care with the concurrence of the Department. The sending party shall return the child if requested to do so by the receiving state. Reasons for the return of a child shall include the reasons cited below in Section 328.5.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 328.5 Removal of Illinois Children

An Illinois child shall be removed from a facility in another state when:

- a) the facility is not licensed, if a license is required, under the state's applicable laws; or
- b) the facility's license or other operating authority is revoked facility loses its license; or
- c) the facility commits or omits an action which would be grounds for license revocation in Illinois; or
- d) the service provided is no longer appropriate for the child's needs nor for the child's permanency goal; or
- e) any event threatens the life, health or safety of a child; or
- f) removal is requested in writing by the other state; or
- g) without cause, provided 30 days notice of the removal is given.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART B: INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE

Section 328.100 Purpose

The purpose of this Subpart is to assure that special needs children who are adopted and move across state lines will be assured a medical card and support services in their new state of residence.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 328.110 Interstate Compact

a) In accordance with the Interstate Compact on Adoption Act [45 ILCS 17/5-1], the Department has signed the Interstate Compact on Adoption and Medical Assistance (ICAMA) administered by the American Public Welfare Association. This Compact assures that medical and related services for adopted children with special needs are provided for when a family moves from Illinois into another state, or from another state into Illinois.

b) A copy of the Interstate Compact on Adoption and Medical Assistance may be obtained from:

Interstate Compact Office
Department of Children and Family Services
406 East Monroe Street, Station #55
Springfield, Illinois 62701

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 328.120 Definitions

"Adoption Assistance" means financial and other assistance provided to adoptive parents to assist in meeting a child's special needs and may include an ongoing monthly payment, a medical card, and payment for specialized services.

"Adoption Assistance Agreement", as used in this Subpart, means an agreement between the adoptive parents and a state, agency, or subdivision thereof, in accordance with which the adoptive parents are to receive assistance and services on behalf of a child with special needs.

"Adoption Assistance State" is a state that is signatory to an adoption assistance agreement on behalf of a particular child.

"Child with Special Needs" is a child whom the original state of

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

residence has determined has needs so unique that adoption without adoption assistance is unlikely.

"Compact Administrator" is the person in the state who has responsibility for the administration of ICAMA.

"ICAMA" means the Interstate Compact on Adoption and Medical Assistance. It is a law, enacted by most states, for the purpose of establishing uniform procedures for assistance for medical care and support services for special needs children who are adopted and move across state lines.

"Party State" means a state that is a member of the Interstate Compact on Adoption and Medical Assistance.

"Resident State" is the state in which the child resides by virtue of the residence of the adoptive parents.

"Resident Compact Administrator" is the person responsible for the administration of ICAMA in the state where the family relocates.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 328.130 Relocation of Adopted Children from Illinois to Other States

a) When the Department is notified that a family with whom it has an adoption assistance agreement is moving or has moved out of state, the Illinois Compact Administrator shall notify the Compact Administrator of the resident state and request issuance of a medical assistance (Medicaid) card.

b) The adoptive family shall be notified that their new resident state Compact Administrator has been requested to issue a Medicaid card, and the child's Illinois Medicaid card shall remain valid until the Department is notified that a medical assistance card has been issued by the new resident state.

c) In the event that a family relocates to a state that is not signatory to ICAMA, the Illinois Compact Administrator shall request that the Medicaid Administrator of the resident state issue a medical assistance (Medicaid) card, and shall provide all reasonable assistance to the family to obtain Medicaid assistance. The Illinois Compact Administrator shall notify the family that a request has been made to their resident state's Medicaid unit to issue their Medicaid card.

d) When a family notifies the Department of their relocation to another state in which the child is ineligible for Medicaid, the Department shall provide the family written instructions regarding how the Department will continue to reimburse medical care after the family

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

moves out-of-state.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 328.140 Relocation of Adopted Children from ICAMA Party State into Illinois

- a) The Interstate Compact Administrator in the ICAMA party state will notify the Illinois Interstate Compact Administrator that a family with whom his or her state has an adoption assistance agreement has moved or plans to move to Illinois, and request that the Illinois Compact Administrator issue an Illinois medical card on behalf of a child who relocates to Illinois.
- b) The Illinois Compact Administrator shall request the Department of Public Aid to issue an Illinois Medicaid card to the family. The Illinois Interstate Compact Administrator shall notify the Compact Administrator of the former resident state when the Illinois Medicaid card has been issued.

(Source: Added at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Admission, Suspension, Expulsion and Discharge Procedures

2) Code Citation: 89 Ill. Adm. Code 755

3) Section Numbers:
 755.05 New Section
 755.10 Amendment
 755.15 New Section
 755.20 Amendment
 755.22 Amendment
 755.25 Amendment
 755.27 New Section
 755.30 Amendment
 755.40 Amendment
 755.50 Amendment
 755.60 Repealed
 755.70 Repealed
 755.80 Repealed
 755.90 Amendment
 755.100 Amendment
 755.230 Repealed
 755.240 Repealed
 755.250 Repealed
 755.260 Repealed

4) Statutory Authority: Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13].

5) A Complete Description of the Subjects and Issues involved: This Part adds new language regarding capacity, admission and application process.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Register. All requests and comments should be submitted in writing to:

Ms. Susan Weir
Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield IL 62762
(217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendment(s) begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 755

ADMISSION--SUSPENSION--EXPULSION--AND--DISCHARGE PROCEDURES

Section

755.05 Determination of Capacity

755.10 Eligibility for Specialized Services

755.15 Residential Placement

755.20 Application for Admission

755.22 Wards of the Department of Children and Family Services

755.25 The Application Process Components-of-an-Application

755.27 The Admissions Process

755.30 Admission of Students with Hearing Impairments

755.40 Admission of Blind, Visually Impaired or Deaf-Blind Students

755.50 Admission of Students with Severe Physical and Health Impairments

755.60 Admissions Review Committee (Repealed)

755.70 Meetings of the Admissions Review Committee (Repealed)

755.80 Representatives to be Present (Repealed)

755.90 Outcome of Application for Admission (Repealed)

755.100 Development of the IEP

755.110 Wards of the Department of Children and Family Services (Repealed)

755.120 Components of an Application (Repealed)

755.130 Submission of Applications (Repealed)

755.140 Admissions Review Committee (Repealed)

755.150 Meetings of the Admissions Review Committee (Repealed)

755.160 Representatives to be Present (Repealed)

755.170 Outcome of Application for Admission (Repealed)

755.180 Multidisciplinary Staffing (Repealed)

755.190 Parent Participation in IEP (Repealed)

755.200 IEP (Repealed)

755.210 Diagnostic Period (Repealed)

755.220 Outcome of the Evaluation (Repealed)

755.230 Discharge (Repealed)

755.240 Case Study Evaluation to Determine Whether a Student is

Inappropriately Placed (Repealed)

755.250 Interim Services (Repealed)

755.260 Suspensions, Changes in Placements, and Discharges of Students who are Dangerous to Themselves or Others (Repealed)

AUTHORITY: Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 18, 1982; codified at 6 Ill. Reg. 14370; amended at 12 Ill. Reg. 13971, effective August 19, 1988; amended at 15 Ill. Reg. 18243, effective December 10, 1991; amended at 20 Ill.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Reg. 15321, effective November 14, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. _____, effective _____.

Section 755.05 Determination of Capacity

Annually, each superintendent shall determine the State School's ability to serve additional students based on the number of students currently enrolled in each division of the State School, the availability of funds, classroom and dormitory space, programs and staffing.

(Source: Added at 22 Ill. Reg. _____, effective _____.)

Section 755.10 Eligibility for Specialized Services

Individuals may be eligible for specialized services offered by the State Schools at ages younger than those specified for enrollment in each respective State School, when it is determined such services are appropriate to the needs of younger children. Inquiries regarding eligibility are made directly to each State School. These specialized services may include, but are not limited to:

- a) Preschool institutes and educational programs.
- b) Training programs for parents and/or preschoolers.
- c) Assessment and evaluation programs.

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

Section 755.15 Residential Placement

The process of determining whether residential placement for educational purposes is necessary shall be made on an individual basis. Placement shall be based on recent diagnostic assessments and other pertinent information indicating that the applicant is so severely disabled that his or her educational needs cannot be met in a less restrictive environment or that the applicant needs additional opportunities for acquiring communication, social, and other basic living skills that are not available in a less restrictive environment.

(Source: Added at 22 Ill. Reg. _____, effective _____.)

Section 755.20 Application for Admission

- a) Application for admission can be made at any time.
- b) A pre-application visit to the State School by the parents or legal guardians (hereinafter "parent") and student is required encouraged.
- c) The State School superintendent facility administrator shall furnish

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

the local school district of student/parental residence--thereafter "district") and the parents with admission forms required by the Department of Human Services (DHS).

- d) DHS recommends that the local school district coordinate the collection, completion, and submission of all application information, including that required of the parents. In some instances (e.g., a request from the local school district), a staff person from the appropriate a--BHS State School may assist in obtaining the required information. All applications for admission to one of the a State Schools School shall be signed by the child's parents.

- e) When an inquiry regarding the admission of a student is received from sources other than a local school district, a "Notification of Inquiry" (IL 488-0726) (Notification) shall be sent within 10 working days to the district. A copy of the Notification shall be sent to the person(s) originating the inquiry and the parent.

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

Section 755.22 Wards of the Department of Children and Family Services

If a student is a ward of the Department of Children and Family Services (DCFS), the Director of DCFS shall designate a staff member to act on behalf of the student with the appropriate local school district when applying for admission to the State Schools and for all other programs. DHS shall cooperate with the Illinois State Board of Education (ISBE) and DCFS in the provision of placement, supervision and foster care of children with disabilities handicaps who must leave their home community in order to attend State Schools schools offering programs in special education.

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

Section 755.25 The Application Process Components-of-an-Application

- a) Application to a State School can be made in one of the following ways:

- 1) by the local school district; or
- 2) in the case of the Illinois School for the Deaf (ISD) or the Illinois School for the Visually Impaired (ISVI), if a parent disagrees with the placement option of the district after the Multidisciplinary Conference (MDC) and Individualized Education Program (IEP) are completed, the parent may apply directly to ISD or ISVI; however, placement of school district referrals shall be given priority over placement of these applicants. ISD or ISVI shall notify in writing or by telephone the local school district within 15 days after receipt of an application from a parent. If resources (classroom and dormitory availability, staff to student

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

ratio and commodities) are sufficient, applications by parents shall be considered at quarterly admission meetings (89 Ill. Adm. Code 755-787).

b) The following shall be submitted to the facility administrator of the State School at the time of application:

- 1) Application. (IL 488-2126)
- 2) A copy of the student's most recent MDC Case Study Evaluation (CSE) and IEP Report developed by the local school district or a copy of the Hearing Officer's decision from an appeal pursuant to 89 Ill. Adm. Code 828.909.
- 3) A letter from the education official of the local school district formally referring the student for educational placement. If the provisions in subsection (a)(2) above apply, a letter shall not be required from the local school district. However, a letter from the parent formally requesting admission to the State School is required.
- 4) The student's medical history, including a current detailed immunization record, and family history of hearing loss, visual impairment, congenital/physical and health problems, and any motor, speech, or self-care limitations the student may possess.
- 5) Appropriate medical examinations:

A) Either a current general physical examination or a Certificate of Child Health Examination (Department of Public Health form 001.2) completed within one year prior to application.

B) Applicants to ISD must submit an otological or an audiological examination report that demonstrates a severe to profound hearing loss for which the student requires a variety of academic and related service interventions.

C) Applicants to ICRE-R must submit a medical examination report from the Division of Specialized Care for Children or medical documentation of disability from a licensed physician. All documentation must show that that applicant has a severe to profound disability for which the student requires a variety of academic and related service interventions, if available.

D) Applicants to ISVI must submit an ophthalmological or optometric examination report that shows a severe to profound visual loss for which the student requires a variety of academic and related service interventions.

E) All students six years of age or younger must submit a lead blood level screening report prior to admission as required by the Department of Public Health (77 Ill. Adm. Code 665.140(f)).

6) The student's most recent case study evaluation, including all components required by 23 Ill. Adm. Code 236-535, if the evaluation is more than three years old; the State School will either request the district to conduct and submit a current case

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

study evaluation or make arrangements for a case study evaluation to be conducted at the State School prior to the student being considered for admission.

6) Other educational, medical, and social reports and documents as may be necessary or required by law for the application process (e.g., guardianship papers, and birth certificate).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 755.27 The Admissions Process

a) When the information required by Section 755.25 of this Part has been received, the State School may request the following to determine a student's eligibility for admission:

1) if additional documentation is needed, the parents shall be requested to sign a release of information for the purpose of obtaining the additional documentation;

2) if additional documentation is not available, the State School may authorize additional evaluations, with parental permission, to determine the State School is the appropriate placement for the student.

b) When it appears that all of the necessary information required for admission has been received, the superintendent's designee shall convene a meeting to determine eligibility. The meeting may include representatives of DHS and ISBE, educational and dormitory representatives, medical personnel, the parents, the student and any other individual deemed necessary by the superintendent. The purpose of this meeting shall be to review all of the required application information and:

1) make a request for additional information, if deemed necessary; or

2) recommend to the superintendent that the student be granted admission; or

3) recommend to the superintendent that the student be admitted on a trial evaluation; or

4) recommend to the superintendent that the student be denied admission.

c) A trial evaluation shall be used when, after receipt of all necessary information, there remains a question as to whether the State School is an appropriate setting for the student. A trial evaluation shall be used for up to one semester. If, at the end of the trial evaluation, it remains unclear as to the appropriateness of the State School for the student, a second trial evaluation may be granted for up to an additional semester. The anticipated time frame of the trial evaluation will be established by the State School, parents, local school district and student prior to beginning the evaluation. The trial evaluation is not an admission to the State School. The results

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

of the evaluation shall determine admission. At the conclusion of the trial evaluation, the State School, parents, student and local school district shall discuss whether admission to the State School is appropriate.

- d) The superintendent shall send written notification within 15 working days following the meeting. Notification shall be sent to the parent and the local school district regarding the outcome of the application for admission. For students accepted, the letter shall contain such information as the date of planned admission and any special considerations or expectations. This letter may also include the information regarding an acceptance on a trial evaluation. Students accepted will be enrolled as soon as possible, but no later than the beginning of the next semester, provided space is available. For students denied admission, the superintendent shall furnish to the applicant's parent(s), the local school district, and ISBE a written statement detailing the reasons for the denial, including, but not limited to, the types of related aids and services the child needs and the reasons the State School cannot provide those aids and services. The statement shall also notify the parent(s) of his/her right to appeal this decision to the superintendent.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 755.30 Admission of Students Who are Deaf and Hard of Hearing with Hearing Impairments

The Superintendent of ISD shall admit students between the ages of three and 21 twenty-one whose primary disability is deafness or hard of hearing, if space is available, when it has been determined through an application and evaluation process that ISD can provide an appropriate program and the student is an Illinois resident who can meet the following criteria:

- has been diagnosed by a qualified otologist licensed pursuant to the Medical Practice Act of 1987 [225 ILCS 60], or
- has been diagnosed, by a qualified audiologist licensed pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act of 1987 [225 ILCS 110], as being deaf or hard of hearing having a hearing impairment, including those with secondary disabilities listed in accordance with 89 Ill. Adm. Code 765.10(d).

In addition, the Superintendent may make both outreach and center based services available to infants who are deaf and hard of hearing with hearing impairments between the ages of birth to three if funds are available to provide for such services.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 755.40 Admission of Students who are Blind or Visually Impaired Blind

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Visually Impaired or Deaf-Blind Students

The Superintendent of the Illinois School for the Visually Impaired (ISVI) shall admit students whose primary disability is blindness or visual impairment between the ages of five and 21 twenty-one, if space is available, when it has been determined through an application and evaluation process that ISVI can provide an appropriate program, and the student is an Illinois resident who can meet the following criteria:

- has been diagnosed by an ophthalmologist licensed pursuant to the Medical Practice Act of 1989 [225 ILCS 60], or
- has been diagnosed by an optometrist licensed pursuant to the Illinois Optometric Practice Act [225 ILCS 80] as blind or visually impaired, including those with secondary disabilities listed in accordance with 89 Ill. Adm. Code 765.10(d).

In addition, the Superintendent may make both outreach and center based services available to infants with visual sight impairments between the ages of birth and five if funds are available to provide such services.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 755.50 Admission of Students with Severe Physical Disabilities and Other Health Impairments

The Superintendent shall administer of the Illinois Center for Rehabilitation and Education - Roosevelt (ICRE-R) Illinois Children's School and Rehabilitation Center (ICRS) shall admit students with severe physical disabilities and health impairments if space is available. These students shall be diagnosed, by a physician licensed pursuant to the Medical Practice Act of 1987 [225 ILCS 60] (ICR-Rev-Stat-1989, ch. 111, par. 4400-1 et seq.), as severely disabled by cerebral palsy, muscular dystrophy, spina bifida, or as having other severe physical disabilities and health impairments disabilities, e.g., traumatic brain injury or a progressive neurological disorder, including those with secondary disabilities listed in accordance with 89 Ill. Adm. Code 765.10(d), between the ages of five and 21 twenty-one who reside in Illinois, if space is available, and it has been determined through an application and evaluation process that ICRE-R ICRS can provide an appropriate program.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 755.60 Admissions Review Committee (Repealed)

Each State School shall have its own Admissions Review Committee composed of representatives from BHS, the facility administrator/designer, a representative from the Illinois State Board of Education, social services staff, appropriate diagnostic/medical specialists, educational staff, and dormitory/housing

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

supervisors--of--the--State--School--Additional--technical--assistance--may--be secured--at--the--discretion--of--the--facility--administrator.

(Source: Repealed at 22 Ill. Reg. _____, effective _____)

Section 755.70 Meetings of the Admissions Review Committee (Repealed)

The--Admissions--Review--Committee--shall--meet--at--least--quarterly--to--review applications--The--Committee--shall--inform--the--facility--administrator--as--to--the appropriateness--and--feasibility--of--the--student's--enrollment--in--a--program--at--the State--School--The--Committee--may--not--consider--an--application--unless--the--MOC Report--the--IEP--and--letter--formally--making--recommendations--for--acceptance--of the--application--from--the--district--is--received--from--the--applicant--10--working days--prior--to--the--meeting--If--the--provisions--in--Section--755-25(a)(7)--apply the--letter--is--not--required.

(Source: Repealed at 22 Ill. Reg. _____, effective _____)

Section 755.80 Representatives to be Present (Repealed)

The--parents--student--and--a--representative--from--the--district--may--be--present--at the--Admissions--Review--Committee--meeting--Parents--and--the--district--shall--be given--at--least--15--working--days--notice--of--the--date--time--and--place--of--the Admissions--Review--Committee--meeting.

(Source: Repealed at 22 Ill. Reg. _____, effective _____)

Section 755.90 Outcome of Application for Admission (Repealed)

The--facility--administrator--shall--send--written--notification--within--fifteen--(15) working--days--following--the--review--of--the--application--by--the--Admissions--Review Committee--to--the--parents--and--the--district--of--the--outcome--of--the--application for--admission--For--students--accepted--the--letter--shall--contain--such information--as--the--date--of--planned--admission--and--any--special--considerations--or expectations--Students--accepted--will--be--enrolled--as--soon--as--possible--but--no later--than--the--beginning--of--the--next--semester--provided--space--is--available. For--students--denied--admission--the--facility--administrator--shall--furnish--to--the applicant--a--parent--the--district--and--the--Illinois--State--Board--of--Education representative--to--the--Admissions--Review--Committee--a--written--statement detailing--the--reasons--for--the--denial--including--the--types--of--related--aids--and services--the--Committee--believes--the--child--needs--and--the--reasons--the--State School--cannot--provide--those--aids--and--services--The--statement--shall--also--notify the--parent(s)--of--their--right--to--appeal--this--decision--pursuant--to--Impartial--Due Process--Hearing--proceedings--(09--Ill--Adm--Code--0007).

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Repealed at 22 Ill. Reg. _____, effective _____)

Section 755.100 Development of the IEP

a) There shall be an IEP (09--Ill--Adm--Code--795-000d) meeting at the time of or either prior to admission or following admission of the student for the purpose of reviewing and/or revising the IEP. The staffing will be held at the State School. The parent(s) and appropriate diagnostic, educational staff and district staff shall be invited to should attend. If possible and feasible, the student should be present for initial orientation and preliminary diagnostic activities conducted by the State School staff.

b) If neither the representative of the local school district who has the authority for obligation of funds or district nor the parent is unable to attend the meeting, the State School shall make every effort to obtain their participation in the process by telephone and concurrence with the IEP. If the local school district is not present and if a commitment of funds from the local school district is required, the IEP shall be recessed until such commitment may be obtained.

e) The State School IEP shall include, but not be limited to, the items listed in Additional Meetings (09--Ill--Adm--Code--795-000d).

c) All participants at the IEP meeting shall be requested, but not required, to sign the completed IEP. The completed IEP shall be signed by the appropriate State School official, the parents parent and the local school district. If the provisions of Section 755.25(a)(2) apply, the district shall be requested to sign the IEP, but its signature is not required.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 755.230 Discharge (Repealed)

A student may be discharged from a State School when:

- a) The student graduates from high school.
- b) The student reaches age 21. The student who becomes 21 during the school year shall be allowed to complete that year.
- e) The student's parents or guardian move out of state unless a parent is a member of the armed forces.
- d) The student's parents or guardian requests the discharge.
- e) It has been determined by a multidisciplinary case study and evaluation conference conducted in accordance with Section 755-2407 that the student is inappropriately placed.
- f) The student is absent for sixty (60) consecutive school days and the parents or guardian either cannot be reached or will not provide information indicating the reasons for the absence or the anticipated date the student will return in such cases, the State School shall

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

contact the school district of parental/student residence within two school days of the date it is known there is a serious question about whether the student will return (if any) due to a long-term hospitalization, death, change of residence) and request assistance in locating and/or working with the parents or guardian.

g) The student is expelled for behavior or a condition which is not or does not result from his or her exceptional characteristics (s) as defined in the Illinois State Board of Education's rules "Special Education" (23 Ill. Adm. Code 226.552 Subpart 1).

(Source: Repealed at 22 Ill. Reg. _____, effective _____)

Section 755.240 Case Study Evaluation to Determine Whether a Student is Inappropriately Placed (Repealed)

a) When the State School's administrators, faculty members, other staff or consultants have reason to believe that a student at the State School is inappropriately placed, a case study evaluation will be conducted as required by the U.S. Department of Education rules "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," found at 34 CFR 104.35(a) (1986). The evaluation will not be limited to the student's primary exceptional characteristics, but will include any exceptional characteristics of the student that may be relevant to the determination that the student is or is not appropriately placed at the School. Case Study Evaluation to Determine Need for Modification of Educational Services (09 Ill. Adm. Code 795.30) sets forth additional requirements.

b) The parents and the school district of parental/student residence will be informed of the reasons for the case study evaluation and the kind of data the evaluators intend to develop. The evaluation shall be subject to parental consent.

e) In interpreting evaluation data and in making placement decisions, the State School will:

- 1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior;
- 2) ensure that information obtained from all such sources is documented and carefully considered; and
- 3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, e.g., parents or guardians, educators, psychologists, social workers, child-care specialists, supervisors, administrators, medical practitioners and others knowledgeable about the child and/or the evaluative data.

d) A decision to terminate the placement of a student at the State School must be made in accordance with Identification, Evaluation, and

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Placement of Exceptional Children (09 Ill. Adm. Code 795.160) at a conference which includes at a minimum the following participants:

1) A representative of each division of the State School other than the child's teacher who is qualified to provide or supervise the provision of special education in accordance with 09 Ill. Adm. Code 010. Such divisions include educational, residential, medical, social services, evaluation, and administration;

2) The child's teacher;

3) One or both of the child's parents or guardians. Refusal or inability to attend shall be handled as in Additional Meetings (09 Ill. Adm. Code 795.08 (b) (3));

4) The child, if the social worker or a conference participant requests his/her attendance or the child is 17 years of age or older;

5) A representative of the school district of parental/student residence; and

6) Other individuals at the discretion of the parent or the school district of parental/student residence. Other individuals are allowed to attend at the invitation of the State School if a school staff member or administrator requests their attendance because they have knowledge of the child and his/her activities.

e) The recommendation of the conference will be the consensus of the participants in accordance with Recommendations (09 Ill. Adm. Code 795.60). The conference participants will prepare a written statement detailing the reasons for the termination, including the type of services the participants believe the child needs and the reasons the State School cannot provide those services.

f) The termination of a child's placement is an appealable issue under Impartial Due Process Hearing (09 Ill. Adm. Code 880). The State School will inform the parents of their right to request an impartial hearing should the conference recommend termination of the student's placement.

(Source: Repealed at 22 Ill. Reg. _____, effective _____)

Section 755.250 Interim Services (Repealed)

a) If the decision of the termination conference participants is to terminate the child's placement at the State School, the participants will recommend at the request of the school district of parental/student residence an appropriate placement for the student and/or interim services for the student at the State School. Such services shall be as appropriate to the student's needs as possible for no more than 20 calendar days after the school district of parental/student residence has been notified. This allows the school district of parental/student residence time to locate the appropriate placement for the child. Such obligation shall terminate if the

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

school-year-for-any-reason-is-a-significant-change-in-placement-under 34-CPR-104.35(a)-1986-and-is appealable pursuant to Impartial Due Process Hearing-409-III-Adm-Code-8007.
e) State-School-staff-do-not-have-unilateral-authority-to-significantly change-a-student's-placement-except-pursuant-to-subsections-(g)-and (i).
d) The-State-School-may-suspend-a-student-for-no-more-than-ten-days-in the-aggregate-in-one-school-year-when-suspension-is-warranted-due-to the-physical-danger-to-the-student-or-school-property-caused by-the-student's-presence-even-when-the-behavior-results-from-an exceptional-characteristic-of-the-student--Suspensions-made-pursuant to-this-section-shall-be-made-in-accordance-with-the-procedures established-in-09-III-Adm-Code-027.90.
e) If-a-student-is-suspended-for-behavior-resulting-from-an-exceptional characteristic-of-the-student-due-to-the-physical-danger-to-himself-or herself--other-students--faculty--or-school-property-caused-by-the student's-continued-presence-the-State-School-shall-be-responsible for-developing-and-providing-an-appropriate-educational-program-in-a manner-consistent-with-Section-504-of-the-Rehabilitation-Act-of-1973 as-amended-(29-U.S.C.-504)-and-as-implemented-in-(34-CPR-104.31-104.39 (1986)).
f) If-the-State-School's-administrators-faculty-members-other-staff-or consultants-have-reason-to-believe-that-the-suspended-student-is inappropriately-placed-at-the-State-School-the-State-School-will initiate-discharge-procedures-as-set-out-in-Section-755.340.
g) If-warranted-because-a-student-is-an-immediate-physical-danger-to himself-or-himself-or-others-the-superintendent-or-designee-may change-the-educational-status-(i.e., a-residential-dormitory-change restriction-of-extra-curricular-activities)-within-the-State-School-of the-student-during-the-pendency-of-due-process-procedures.
h) The-Superintendent-of-the-State-School-or-designee-may-also-suspend for-no-more-than-ten-days-in-the-aggregate-the-student-who-is-an immediate-danger-to-himself-or-himself-or-others-during-the-pendency of-due-process-proceedings.
i) The-State-School-may-not-unilaterally-cease-to-provide-services-to-a student-during-the-pendency-of-due-process-proceedings--if-the student-however-represents-so-substantial-a-danger-to-himself-or herself-or-others-that-the-only-appropriate-placement-is-beyond-the State-School's-authority-to-provide-such-as-hospital-or-home-bound instruction-the-State-School-can-make-an-emergency-appeal--to-the Associate-Director--ORS-of-the-Department-of-Human-Services--in-this appeal--the-parents-and-the-school-district-of-parental-student residence-have-an-opportunity-to-suggest-alternative-placements--if the-Associate-Director--ORS--agrees-with-the-State-School--then-such services-shall-be-terminated.

(Source: Repealed at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

student-refuses-to-remain-on-campus-or-if-the-parent(s)-refuses-to allow-the-student-to-remain-on-campus--Further-such-obligation-is limited-solely-to-such-services-as-may-be-given-on-the-State-School's Premises.
b) In-those-extraordinary-circumstances-in-which-the-conference participants-conclude-that-the-student-represents-so-substantial-a danger-to-himself-or-school-property-that-the-only-appropriate placement-is-beyond-the-State-School's-authority-to-provide-in accordance-with-III-Rev-Stat-1907-ch-23-par-3447--such-as homebound-or-hospital-instruction-or-that-the-student-is-unable-to adjust-to-group-living-the-conference-participants-may-recommend-that the-State-School-is-not-an-appropriate-placement-for-interim-services. Any-such-changes-in-placements-shall-be-made-only-in-accordance-with Section-755.260-(f).
e) The-State-School-will-implement-the-recommendations-of-the-conference and-will-provide-interim-services-to-the-student-for-no-more-than-20 calendar-days-(depending-on-the-recommendation-of-the-conference) unless-the-school-district-of-parental-student-residence-locates-an appropriate-placement-within-less-time.
d) The-modifications-to-the-child's-program-will-be-initiated-as-soon-as possible-after-the-decision-to-terminate-the-placement-of-the-child-at the-State-School-and-the-agreement-to-the-amount-and-type-of-interim services-to-be-offered.
e) The-modifications-to-the-child's-program-during-the-20-calendar-day interim-shall-be-made-according-to-the-procedures-set-forth-in-09-III-Adm-Code-795.90-795.120-or-755.260(g).
f) Subsections-(a)-and-(c)-in-no-way-modify-the-obligation-of-the-school district-of-parental-student-residence-to-provide-a-free-appropriate public-education-to-qualified-students-with-disabilities-within-its jurisdiction--nor-do-these-paragraphs-modify-the-obligation-of-the school-district-of-parental-student-residence-to-locate-an-appropriate placement-as-soon-as-possible-after-the-decision-to-terminate-the child's-placement-at-the-State-School-has-been-made.
g) Under-Subsections-(a)-and-(c)-the-State-School-shall-not-be-required to-maintain-the-student-on-campus-or-to-provide-services-during scheduled-breaks-shutdowns-or-summer-vacations.

(Source: Repealed at 22 Ill. Reg. _____, effective _____)

Section 755.260 Suspensions, Changes in Placements, and Discharges of Students who are Dangerous to Themselves or Others (Repealed)

a) A-suspension-barring-the-child--from--both--the-educational--and--the residential--components--of--the-State-School-of-less-than-ten-school days-in-the-aggregate--in-one-school-year-is-not-a-significant-change in-placement-not-a-discharge.
b) A--suspension-for-greater-than-ten-school-days-in-the-aggregate-in-one

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Definition of Terms
- 2) Code Citation: 89 Ill. Adm. Code 825
- 3) Section Numbers: Proposed Action:
825.10 Repealed
- 4) Statutory Authority: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].
- 5) A Complete Description of the Subjects and Issues Involved: This Part has been repealed. Definitions of Terms are now found in Part 751.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed repealer contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

- A) Types of small businesses, small municipalities and not for profit corporations affected: None

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

- B) Reporting, bookkeeping or other procedures required for compliance:
None

- C) Types of professional skills necessary form compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: July, 1998

The full text of the Proposed Repealer begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 825

DEFINITION OF TERMS
(REPEALED)Section
825.10 Definitions

AUTHORITY: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 18, 1982; codified at 6 Ill. Reg. 13798; amended at 12 Ill. Reg. 5443, effective March 8, 1988; amended at 13 Ill. Reg. 7958, effective May 12, 1989; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; repealed at 22 Ill. Reg. _____, effective _____.

Section 825.10 Definitions

Admissions Review Committee: shall be defined as a committee which reviews all information available for each child referred and determines whether there are reasonable expectations that a special education program currently offered by the State School can adequately or appropriately meet the child's needs.

Basic Special Education Program: shall be defined as the special educational program generally offered by the State School to the majority of its students.

Consent: the parent(s) or guardian

Has been informed of all necessary information.

Understands and agrees in writing to carrying out the activity for which consent is sought.

Understands that the granting of consent is voluntary on his/her part and may be revoked at any time.

Continuum of Alternative Programs: the availability of different types of special educational programs, for example: basic special education program, basic special education program with modifications, alternative basic special education program, and cooperative program.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

Counseling Services: services provided by qualified personnel, such as: social workers, psychologists, guidance counselors, or other qualified personnel.

Exceptional Students: shall be defined, for the purposes of these rules and regulations, as all students whose primary disability is a hearing, visual, physical or health impairment or who are deaf-blind. These children may exhibit exceptional characteristics ranging from very mild to very severe.

Individualized Education Program (IEP): a written statement for an exceptional student that provides at least a statement of: the student's present levels of educational performance; annual goals and short-term instructional objectives; specific special education and related services; the extent of participation in the basic special education program; the projected dates for initiation of services; anticipated duration of services; appropriate objective criteria and evaluation procedures; and a schedule for annual determination of short-term objectives.

Instructional Programs: shall be defined as those activities which provide the principle elements of the exceptional student's educational development at any given time.

These activities may include any or all of the following:

Evaluation of the nature of the student's educational needs.

Amelioration of and compensation for visual, auditory, physical, speech or other impairments.

Development of language concepts and communication skills.

Educational experiences which are adjusted in content, emphasis, rate or location.

Modification of social skills or emotional adjustment.

For the purpose of 89 Ill. Adm. Code: Chapter IV, Subchapter f, an instructional program shall be considered as one in which the student spends 50% or more of his/her school day.

Language Use Pattern: shall be defined as the language or combination of languages which the student uses to conceptualize and communicate those conceptualizations.

Least Restrictive Environment: to the maximum extent appropriate, children with disabilities are educated with children without

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

disabilities. Special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability requires that education in regular classes with use of supplementary aids and services cannot be achieved satisfactorily.

Multidisciplinary Conference: a deliberation among appropriate persons, considering the least restrictive environment, for the purpose of determining eligibility for special education, developing recommendations for special education programming, reviewing educational progress, or considering the modification, continuation or termination of enrollment in the State School for an individual student.

Nonacademic activities: activities relating to the students' social and recreational needs (e.g., sports, clubs, and student council).

Parent: shall be defined as the natural or adoptive parent, a guardian, a person acting as a parent of a student, or surrogate parent.

Parent Counseling and Training: procedures utilized in assisting parents in understanding the special needs of their child and providing parents with information about child development.

Parent/Student Residence: shall be defined as the school district in which the parent resides.

Psychological Evaluation: an individual evaluation of the student's functioning in the cognitive, psychomotor, social/emotional, and academic achievement or aptitude areas using appropriately validated formal and informal tests and evaluation material.

Qualified Specialist: shall be defined as those professional special education personnel who meet either the certification or approval requirements described in Rule, Special Education Personnel (89 Ill. Adm. Code 810).

Reevaluation: a series of diagnostic procedures which are performed in accordance with (89 Ill. Adm. Code 795.100) for the purpose of determining a student's continued eligibility for enrollment at the State School.

Referral: shall be defined as a formal procedure, established by the State School, whereby students are evaluated for consideration for acceptance into a State School program.

Related Services: the developmental, corrective, and other supportive

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

services which are required to assist a student to benefit from special education. Such services include: speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. The term also includes transportation, school health services, social work services, and parent counseling and training.

School Days: shall be defined as those days on which school is officially conducted during the regularly established school year.

School Health Services: services provided by a school nurse or other related health services staff.

Screening: shall be defined as the process of reviewing all students in a given group with a set of criteria for the purpose of identifying certain individuals for evaluations who may be in need of modified special education services.

Social Developmental Study: shall be defined as a compilation and analysis of information concerning those life experiences of the student, both past and present, which pertain to the student's problems or to the possible alleviation of those problems.

Special Education: shall be defined as those instructional and related services, unique materials, physical plant adjustments, and other special educational facilities provided by the State School, to meet the unique needs of students, modify, supplement, support, or are in the place of the standard educational program of the public schools. The term includes speech pathology and vocational education.

Special Education Placement: shall be defined as where the exceptional student is enrolled or placed to receive the specified special education and related services most appropriate to his/her needs: a local district, including homebound and hospital programs; a state-operated school; or, a non-public program.

Special Transportation: shall be defined as those transportation services which are required because of the student's exceptional characteristics or the location of the special education program, or related services, and which are in addition to the regular transportation services provided by the local school district.

State School: shall be defined as an educational setting which is administered by the Illinois Department of Human Services to meet the needs of exceptional students.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

Surrogate Parent: a person who acts in the educational behalf of an exceptional student, in accordance with Surrogate Parents (89 Ill. Adm. Code 805).

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULES

1) Heading of the Part: Definition of Terms

2) Code Citation: 89 Ill. Adm. Code 751

3) Section Numbers: Proposed Action:
751.10 New Section
751.20 New Section

4) Statutory Authority: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 101.

5) A Complete Description of the Subjects and Issues involved: A new Part that provides definitions of terms used throughout Parts 750-835.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield IL 62762
(217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULES

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULES

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 751
DEFINITION OF TERMS

Section
751.10 Definitions
751.20 General Provisions

AUTHORITY: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

SOURCE: Adopted at 22 Ill. Reg. _____, effective _____.

Section 751.10 Definitions

"Associate Director" - means the Associate Director of the Illinois Department of Human Services, Office of Rehabilitation Services (ORS).

"Consent" - means permission of the parent(s) after being informed of all necessary information.

"Days" - unless otherwise specified, means days when school is officially conducted during the regularly established school year.

"DHS" - means the Illinois Department of Human Services and does not include any contractor, grantee, nominee agency or service provider.

"Individualized Education Program (IEP)" - a written statement for a student that provides at a minimum a statement of: the student's present levels of educational performance; annual goals and short-term instructional objectives; specific special education and related services; the extent of participation in the basic special education program; the projected dates for initiation of services; anticipated duration of services; appropriate objective criteria and evaluation procedures; and a schedule for annual determination of short-term objectives.

"Least Restrictive Environment" - means, to the maximum extent appropriate, children with disabilities are educated with children without disabilities. Special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability requires that education in regular classes with the use of

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULES

supplementary aids and services cannot be achieved satisfactorily.

"Local School District" - means the district in which a student and/or parent resides.

"Multidisciplinary Conference" - means a deliberation among appropriate persons, considering the least restrictive environment, for the purpose of determining eligibility for special education, developing recommendations for special education programming, reviewing educational progress, or considering the modification, continuation or termination of enrollment in the State School for an individual student.

"Non-academic Activities" - means activities relating to the students' social and recreational needs (e.g., sports, clubs, and student council).

"Parent" - means the natural, surrogate or adoptive parent or legal guardian of the person or student.

"Parent Counseling and Training" - means assisting parents in understanding the special needs of their child and providing parents with information about child development.

"Personal Representative" - means an individual who has been designated by the student or parent to serve as a representative during an appeal procedure.

"Psychological Evaluation" - means an evaluation of the student's functioning in the cognitive, psychomotor, social/emotional, and academic achievement or aptitude areas using appropriately validated formal and informal tests and evaluation material.

"Reevaluation" - means a series of diagnostic procedures that are performed in accordance with 89 Ill. Adm. Code 795 for the purpose of determining a student's continued eligibility for enrollment at the State School.

"Related Services" - means the developmental, corrective, and other supportive services that are required to assist a student to benefit from special education. Such services include: speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. The term also includes transportation, school health services, social work services, and parent counseling and training.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULES

"Secretary" - means the Secretary of the Illinois Department of Human Services.

"Special Education" - means those instructional and related services, unique materials, physical plant adjustments, and other special educational facilities, provided by the State School to meet the unique needs of students, that may modify, supplement, support, or are in the place of the standard educational program of the public schools. The term includes speech pathology and vocational education.

"State Board" - means the Illinois State Board of Education (ISBE)

"State School" - means one of the three residential schools operated by DHS: Illinois Center for Rehabilitation and Education-Roosevelt (ICRE-R), the Illinois School for the Deaf (ISD), or the Illinois School for the Visually Impaired (ISVI).

"Student" - means a person attending, or making application for admission to, one of the State Schools. All references to "student" include the parent or guardian unless the student is 18 years of age or over, in which case it refers to the student only.

"Superintendent" - means the Superintendent of a State School or an individual designated by the Superintendent to serve on his/her behalf.

Section 751.20 General Provisions

Any and all notices and communications made pursuant to this Part shall be in writing, in a language that the student understands, unless the student is unable to communicate in writing. All non-written communications must be documented.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Evaluation and Coordination of Special Education

2) Code Citation: 89 Ill. Adm. Code 820

3) Section Numbers: Proposed Action:

820.10	Repealed
820.20	Repealed
820.30	Repealed
820.40	Repealed
820.50	Repealed
820.60	Repealed

4) Statutory Authority: Implementing Sections 3 and 10 and authorized by Section 3 of the "Disabled Persons Rehabilitation Act" [20 ILCS 2405/3 and 10].

5) A Complete Description of the Subjects and Issues Involved: This Part is being repealed. The language is now found at Subpart C of Part 750.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed repealer contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis: The Department has determined

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

that this rulemaking will not affect small businesses.

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July, 1998

The full text of the Proposed Repealer begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

TITLE 89: SOCIAL SERVICES
 CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
 SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 820
 EVALUATION AND COORDINATION OF SPECIAL EDUCATION
 (REPEALED)

Section
 820.10 Extent of Fulfilling Responsibilities
 820.20 Evaluation Focus
 820.30 Evaluation
 820.40 Written Reports
 820.50 Recognition Status
 820.60 Coordination

AUTHORITY: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 18, 1982; codified at 6 Ill. Reg. 13797; amended at 12 Ill. Reg. 14008, effective August 19, 1988; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; repealed at 22 Ill. Reg. _____, effective _____.

Section 820.10 Extent of Fulfilling Responsibilities

- a) The extent to which the State School is fulfilling its responsibilities to exceptional children shall be determined by the Illinois Department of Human Services and the Illinois State Board of Education.
- b) Official representatives of the Illinois Department of Human Services and the Illinois State Board of Education shall be authorized to examine all documentation in a manner, consistent with the Illinois Department of Human Services policies in confidentiality, including student records (89 Ill. Adm. Code 505), which would facilitate such determination.

Section 820.20 Evaluation Focus

Evaluation by the Illinois Department of Human Services and the Illinois State Board of Education shall focus on the State School's provision of special education services, on each special education cooperative organization of which it is a participant, and on community resources utilized by the State School.

Section 820.30 Evaluation

Evaluation of special education programs and services shall be based on all of

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

the following elements:

- a) A Special Education Services Comprehensive Plan. This plan shall describe the State School's provision of special education services, its plan for program involvement, and those factors unique to the individual State School which must be considered in the evaluation. This plan shall be filed with the Illinois Department of Human Services and the Illinois State Board of Education and revised at least triannually.
- b) Continuous Internal Evaluation. The State School shall develop and implement procedures which assess the extent to which exceptional children are being adequately served and the effectiveness of each special education program and service.
- c) Recognition Criteria for Special Education. The criteria shall be assessed through an in-depth study conducted on site by a team representing the Department of Recognition and Supervision and the Department of Special Education of the Illinois State Board of Education.
- d) Records must be maintained to demonstrate compliance with assurances agreed to in the applications for state and federal funds. These records will be monitored by the staff of the Illinois Department of Human Services and of the Illinois State Board of Education.

Section 820.40 Written Reports

Written reports of the results of the evaluation conducted by the Illinois State Board of Education and any subsequent recommendations or actions shall be provided to the Illinois Department of Human Services and the superintendent of the appropriate State School. Reports of the evaluation shall be considered in the public domain.

Section 820.50 Recognition Status

The recognition status of the State School shall be affected by its provision of special education services.

Section 820.60 Coordination

DHS will continue to coordinate its program and activities for hearing, visually and physical/health impaired students with those programs operated or supervised by the Illinois State Board of Education (ISBE).

- a) DHS will cooperate with the Illinois State Board of Education and will respond to its requests for technical assistance in identifying the need for additional programs for hearing, visually and physical/health impaired students with secondary disabilities.

- b) In order to aid ISBE to fulfill its obligation to coordinate all educational programs for exceptional children, DHS agrees to provide to ISBE by Nov. 1 of each year the names of students with secondary disabilities who were denied admission to the State Schools, together

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

with the reasons for the denial, including a statement of the types of related aids and services the student requires which the State Schools are unable to provide.

- c) DHS will cooperate with ISBE in making efforts to identify the statewide need for additional programs or modifications to existing programs for hearing, visually and physical/health impaired students.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Home and Hospital Programs

- 2) Code Citation: 89 Ill. Adm. Code 785

- 3) Section Numbers: Proposed Action:
785.10 Repealed

- 4) Statutory Authority: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10]

- 5) A Complete Description of the Subjects and Issues involved: This Part is being repealed. The text is now found at 750.120.

- 6) Will this proposed rule replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed repealer contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield IL 62762
(217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

None

C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Repealer begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 785

HOME AND HOSPITAL PROGRAMS (REPEALED)

Section

785.10 Home and Hospital Programs

AUTHORITY: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 18, 1982; codified at 6 Ill. Reg. 14687; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; repealed at 22 Ill. Reg. _____, effective _____.

Section 785.10 Home and Hospital Programs

The State Schools do not provide home and hospital programs as defined by the Illinois State Board of Education. A student requiring home and hospital programs shall be returned to the sending local school district for appropriate educational programming.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Identification, Evaluation, and Placement of Exceptional Children

- 2) Code Citation: 89 Ill. Adm. Code 795

- 3) Section Numbers: Proposed Action:

795.10	Amendment
795.20	Amendment
795.30	Amendment
795.40	Repealed
795.50	Amendment
795.60	Amendment
795.70	Amendment
795.75	New Section
795.80	Repealed
795.90	Amendment
795.100	Amendment
795.120	Amendment
795.130	Amendment
795.140	Amendment
795.150	Amendment

- 4) Statutory Authority: Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13].

- 5) A Complete Description of the Subjects and Issues Involved: Section 795.30 has been revised to include language regarding case study evaluations. Sections 795.40 and 795.80 have been repealed. Section 795.75 has been added to clarify notifications to the schools.

- 6) Will this proposed rule replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed rule (amendment, repealer) contain incorporations by Reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

- A) Types of small businesses, small municipalities and not for profit corporations affected: None

- B) Reporting, bookkeeping or other procedures required for compliance: None

- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendment(s) begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
 SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 795
 IDENTIFICATION, EVALUATION, AND PLACEMENT OF STUDENTS ~~EXCEPTIONAL~~
 CHILDREN

Section	
795.10	Program of Public Awareness
795.20	Responsibility of Seeking Out and Identifying Students Needing Special Program
795.30	Case Study Evaluation to Determine Need for Modification of Educational Services
795.40	Notification of Modification or Change <u>(Repealed)</u>
795.50	Criteria for Change
795.60	Recommendations
795.70	Written Report
795.75	<u>Notification of Modification or Change</u>
795.80	<u>Additional Meetings (Repealed)</u>
795.90	Parental Notification
795.100	Parental Consent to Proposed Modifications
795.110	Parental Objections (Repealed)
795.120	Modifications or Changes
795.130	Review of Educational Status and Continued Special Education Placements
795.140	Written Notification of Continuation to Parents
795.150	Written Notification to State School Superintendent
795.160	Termination of Placement (Repealed)

AUTHORITY: Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 28, 1982; codified at 6 Ill. Reg. 14860; amended at 12 Ill. Reg. 14012, effective August 19, 1988; amended at 14 Ill. Reg. 16005, effective September 17, 1990; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. _____, effective _____.

Section 795.10 Program of Public Awareness

The Department of Human Services (DHS) shall develop and implement an ongoing program of public awareness of special education programs and comprehensive rehabilitation services offered at the State Schools and of advising the public of the rights of ~~exceptional~~ students.

- a) All such programs shall assure that information regarding DHS State state-operated special education programs and the rights of students

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

is made available in each of the major languages represented in the enrollment and in phrases which will be understandable to parents, regardless of ethnic or cultural background, or hearing or visual abilities.

- b) Programs developed by the State School to create public awareness of special education programs and for advising the public of the rights of ~~exceptional~~ students shall include, but need not be limited to:
- 1) Annual notification to all parents who have students in the State School regarding the special education programs and services available in or through that State School and of their rights to receive, upon request, a copy of these rules and regulations.
 - 2) An annual dissemination of the same information to the local school districts served by the State School regarding the special education program and services available in or through the State School.
 - c) Documentation, including examples as appropriate, of the Department and each of the State School's efforts to create public awareness of special education programs and efforts to inform parents of the rights of ~~exceptional~~ students shall be maintained in the State School's files.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 795.20 Responsibility of Seeking Out and Identifying Students Needing Special Program

- a) Each State School shall be responsible for actively seeking out and identifying students enrolled in the State School, including those with secondary disabilities, as listed defined in 89 Ill. Adm. Code 765.10(d), who may need special education programs and services beyond those included in the Individualized Education Program (IEP) or provided by the basic special education program of the State School school. Procedures developed to fulfill this responsibility shall include, but not be limited to:

- 1) Hearing and vision screening at regular intervals during the student's school career.
 - 2) Speech and language screening of each student upon initial enrollment in a State School.
 - 3) Annual screening by teachers and other professional personnel, for referral of those students who exhibit problems which interfere with their educational progress and/or their adjustment to the educational setting.
- b) Procedures may include coordination with local and State state service agencies and existing parent groups.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 795.30 Case Study Evaluation to Determine Need for Modification of Educational Services

- a) When a student at the State School exhibits problems, or secondary disabilities, which interfere with his/her educational progress or adjustment to the educational setting, or when there is reason to believe that a student may require additional special education services, beyond those provided by the basic special education program of the State School, a case study evaluation shall be conducted.
- b) In addition the student, parents of a student enrolled in the State School, other persons having primary care and custody of the student, the local school district, community service agencies, other professional persons having knowledge of the student's problems, the Illinois Department of Human Services, and the Illinois State Board of Education may request a case study evaluation.
- a) Parental consent shall be obtained before:
- 1) Conducting any case study evaluation or reevaluation of the student;
 - 2) Changing the placement of a student after completion of the case study evaluation, in a program providing special education and related services beyond those provided by the basic special education program of the State School; and
- b) Each case study evaluation shall be conducted so as to assure that it is linguistically, culturally, racially, and sexually nondiscriminatory and is adjusted to the student's disability.
- c) Each State School shall develop, and make known to all concerned persons, procedures by which a case study evaluation shall occur. These procedures shall:
- 1) Designate the steps to be taken when requesting a case study evaluation.
 - 2) Designate the person to whom a referral shall be made.
 - 3) Indicate the information which shall be provided.
- d) Parental consent shall be obtained before:
- 1) Conducting any case study evaluation or reevaluation of the student.
 - 2) Changing the placement of a student, after completion of the case study evaluation, in a program providing special education and related services beyond those provided by the basic special education program of the State School and contained in the student's IEP.
- e) Each case study evaluation shall be conducted so as to assure that it is linguistically, culturally, racially, and sexually nondiscriminatory and is adjusted to the student's ability.
- f) The State School staff shall be responsible for determining the appropriateness of the request, deciding what further action should be taken, initiating the necessary procedures, and informing the person making the request within 30 days regarding its decision to conduct or

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

not to conduct a case study evaluation. The information provided to the requesting party shall contain, subject to the Illinois School Student Records Act [105 ILCS 10] and the rules of the Illinois State Board of Education entitled Student Records (23 Ill. Adm. Code 375), the reasons for the decision.

g) If the State School decides not to conduct the requested case study evaluation, the parents and referring source, if other than the parent, shall be notified in writing within 30 days of the following:

- 1) The date of the referral and the reasons the case study evaluation was requested;
 - 2) The reasons the State School has decided not to conduct a case study evaluation; and
 - 3) The right to appeal the decision within 5 days under the impartial due process hearing procedures.
- d) The parents of a student enrolled in the State School, other persons having primary care and custody of the student, the local school district or the student may request a case study evaluation:
- 1) If the State School decides not to conduct the requested case study evaluation, the parents and referring source, if other than the parent, shall be notified in writing within 30 days of the following:
 - A) The date of the referral and the reasons the case study evaluation was requested;
 - B) The reasons the State School has decided not to conduct a case study evaluation;
 - 2) When the State School refuses or fails to conduct such an evaluation, the parents, other persons having primary care and custody of the student, the local school district or the student may appeal this decision within 5 days in an impartial due process hearing.
- e) Requests for a case study evaluation may be made of the State School by parents, community service agencies, persons having primary care and custody of a student, other professional persons having knowledge of the student's problems, the student, the Illinois Department of Human Services, a local school district, or the Illinois State Board of Education (ISBE):
- 1) Procedures developed in accordance with subsections (a) and (2) of this Section apply to all requesting sources.
 - 2) The State School staff shall be responsible for determining the appropriateness of the request, deciding what further action should be taken, and initiating the necessary procedures.
 - 3) The State School staff shall be responsible for informing the person making the request within 30 days regarding its decision to conduct or not to conduct a case study evaluation. The information provided to the requesting party shall contain, subject to the Illinois School Student Records Act (105 ILCS 10) and the rules of the ISBE, the reasons for that decision.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 795.40 Notification of Modification or Change (Repealed)

~~Parents--or--guardians--of--an--enrolled--student--and--the--local--school--district--of--parental--student--residence--shall--be--notified--in--writing--at--least--ten--(10)--calendar--days--prior--to--the--State--School's--initiation--of--a--modification--or--change--in--the--identification--evaluation--instructional--program--educational--placement--of--the--student--or--the--inability--to--provide--a--free--appropriate--public--education--to--the--student--An--initial--contact--shall--be--by--telephone--with--written--notice--to--follow--~~

- ~~a) The notice shall be:~~
- ~~1) Written in language understandable to the general public; and~~
- ~~2) Provided in the native language of the parent or other mode of communication used by the parents, unless it is clearly not feasible to do so;~~
- ~~3) If the native language or other mode of communication of the parent is not a written language, the State School shall insure:~~
- ~~A) That the notice is translated orally or by other means to the parent in his/her native language or other mode of communication;~~
- ~~B) That the parent understands the content of the notice; and~~
- ~~C) That there is written evidence on file that the requirements of these regulations have been met.~~

b) The notice shall contain:

- ~~1) A description of the action proposed or refused by the State School; an explanation of why the State School proposes or refuses to take the action; and a description of any options that the State School considered and the reasons why those options were rejected;~~
- ~~2) A description of each evaluation procedure, test, records, or report that the State School uses as a basis for the proposal or refusal; and~~
- ~~3) The parents' right to object to the proposed modifications and the specific procedures in making such an objection, including the procedures for requesting an impartial due process hearing;~~
- ~~4) A full explanation of all of the procedural safeguards available to the parents, including the availability upon request of a free or low cost legal and other relevant services available locally to assist parents in initiating an impartial due process hearing;~~
- ~~5) A description of any other factors which are relevant to the State School's proposal or refusal.~~

(Source: Repealed at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 795.50 Criteria for Change

No single procedure shall be used as the sole criterion for initiating a change or changing the identification, evaluation or educational program of a student enrolled in a State School. The determination of a change shall be made by a multidisciplinary team through one or more conferences. ~~These conferences~~ ~~This conference~~ may be preceded by an individual case study conducted in accordance with Section 795.30 and its accompanying procedures.

- a) Participants in the conference(s) shall include appropriate representatives of the local school district, ~~of-parental-student-residence~~ ~~all-these~~ State School personnel involved in the evaluation of the student; the parent(s); other persons having significant information, knowledge or special experience regarding the student; and those persons who may become responsible for providing the special education program or service to the student; the student, where appropriate, and other individuals at the discretion of the parent, the State School, or the local school district ~~of-parental-student-residence~~.
- b) The purpose of the above conference(s) shall be to:
 - 1) Establish a composite understanding of the student's learning characteristics, sensory and motor skills, and behaviors.
 - 2) Determine need for modified special education programs and/or services.
 - 3) Determine the student's unique educational needs and the extent to which these needs can or cannot be met by the basic special education program of the State School.
 - 4) Determine the nature and degree of other special education intervention which is needed, and recommend corresponding programming, or placement which is least restrictive of interaction with nondisabled or less disabled students.
- c) ~~If the above conference is also used for the development of the IEP, then the components of Section 795.80 of this Part shall be followed.~~

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 795.60 Recommendations

Recommendations made at the multidisciplinary conference shall be determined by consensus of the participating conference participants; if an agreement cannot be reached, additional information shall be obtained. In considering a student with a mental impairment, a certified school psychologist must concur with the students eligibility based on the results of a psychological evaluation.

- a) Recommendations for special education services, other than those provided in the basic special education program of the State School, shall be based on the following:
 - 1) The student shall be placed in the educational program which is appropriate to the student's needs and least restrictive of the

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- interaction with the other students enrolled in the State School.
- 2) The special education service must be based on the student's IEP.
 - 3) ~~Unless a disabled student's IEP requires some other arrangement, the student must be educated in the State School.~~ The State School will provide opportunities for the student to be integrated into academic and nonacademic activities, e.g., athletics, joint use of facilities, and public school student attendance at a State School, in the public school district to the greatest extent appropriate. Such integration activities shall be included on the student's IEP.
 - 4) Consideration must be given to any potentially harmful effect on the student, on the quality of services which he/she needs, or that which impedes the education of other students in the environment.
 - b) The proposed special education and related services shall be consistent with the findings of a case study evaluation and the established eligibility of the student.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 795.70 Written Report

A written report of the results and recommendations of the multidisciplinary conference shall be prepared.

- a) The conference report shall be dated, and list the names of all those in attendance at the conference.
- b) A copy of the conference report, together with all documentation upon which it is based, shall be kept on file by the State School. The parents and the referring local school district shall be informed of their rights of access of the report. A copy of the multidisciplinary conference report must be given to the parents at the conclusion of the conference.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 795.75 Notification of Modification or Change

Parents of a student and the local school district shall be notified in writing at least ten calendar days prior to the State School's initiation of a modification or change in the identification, evaluation, instructional program, or educational placement of the student, or the inability to provide a free appropriate public education to the student. An initial contact shall be by telephone with written notice to follow.

- a) The notice shall be:

- 1) Written in language understandable to the general public; and
- 2) Provided in the native language of the parent or other mode of

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- b) communication used by the parents, unless it is clearly not feasible to do so.

If the native language or other mode of communication of the parent is not a written language, the State School shall ensure:

- A) That the notice is translated orally or by other means to the parent in his/her native language or other mode of communication;
- B) That the parent understands the content of the notice; and
- C) That there is written evidence on file that the requirements of these regulations have been met.

c) The notice shall contain:

- 1) A description of the action proposed or refused by the State School, an explanation of why the State School proposes or refuses to take the action, and a description of any options that the State School considered and the reasons why those options were rejected;

- 2) A description of each evaluation procedure, test, record, or report that the State School uses as a basis for the proposal or refusal;

- 3) The parents' right to object to the proposed modifications and the specific procedures for making such an objection, including the procedures for requesting an impartial due process hearing;

- 4) A full explanation of all of the procedural safeguards available to the parents, including the availability upon request of a list of free or low cost legal and other relevant services available locally to assist parents in initiating an impartial due process hearing;

- 5) A description of any other factors that are relevant to the State School's proposal or refusal.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 795.80 Additional Meetings (Repealed)

~~If the initial multidisciplinary conference by the State School was held for the purpose of formulating a recommendation for services beyond those provided by the basic special education program of the State School, an additional meeting or meetings must be held for the purpose of developing the exceptional student's IEP. Each State School must be responsible for initiating and conducting one or more meetings for the purpose of developing, reviewing and revising the IEP. The meeting at which an exceptional student's IEP is developed must be held within thirty (30) calendar days of a determination that the student needs modified special education and related services.~~

- a) Parents of the student must be notified of the meeting to develop review and revise the student's IEP. The State School must take steps to insure that the parents of the student are present at each meeting or are afforded the opportunity to participate, including:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Notifying parents of the meeting early enough to insure that they will have an opportunity to attend, and
- 2) Scheduling the meeting at a mutually agreed-on time and place.
- 3) The notice must indicate the purpose, time and location of the meeting, and who will be in attendance.
- b) The following participants must be included in the IEP meeting:
- 1) A representative of the State School other than the student's teacher, who is qualified to provide or supervise the provision of special education (e.g., the state approved special education administrator or designee);
- 2) The student's teacher; the teacher organization representatives may not attend without parental and State School consent;
- 3) One or both of the student's parents or guardians.
- A) If neither parent can attend, the State School shall use other methods to insure parent participation, including individual or conference telephone calls.
- B) A meeting may be conducted without a parent in attendance if the State School is unable to convince the parents that they should attend. In this case the State School must have a record of its attempts to arrange a mutually agreed-on time and place such as:
- 1) Detailed records of telephone calls made or attempted and the results of those calls;
- 2) Copies of correspondence sent to the parents and any responses received; and
- 3) Detailed records of visits made at the parents' home or place of employment and the results of those visits.
- 4) The student shall be asked to attend and shall also be included if the parent requests the student's presence.
- 5) Other individuals at the discretion of the parents or State School.
- 6) A representative of the referring local school district shall be invited to attend.
- c) For a student who has been evaluated for the first time after enrollment in the State School, shall insure that a member of the evaluation team participates in the meeting or that the representative of the State School, the student's teacher or some other person who is knowledgeable about the evaluation procedures used with the student and is familiar with the results of the evaluation participates in the meeting as well as an interpreter for the deaf if necessary.
- d) The IEP shall include but is not limited to the following:
- 1) A statement of the student's present levels of educational performance;
- 2) A statement of annual goals, including short-term instructional objectives;
- 3) A statement of the specific special education and related services to be provided to the student and the extent to which

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- the student will be able to participate in regular educational programs;
- 4) The projected dates for initiation of services and the anticipated duration of the services; and
- 5) Appropriate objective criteria and evaluation procedures and schedules for determining on at least an annual basis whether the short-term instructional objectives are being achieved.
- e) The State School shall give the parent and the school district of parental/student residence on request a copy of the student's IEP.
- f) Following the determination of the student's IEP, parents shall be afforded, on an ongoing basis, reasonable opportunity for comment on and input into their child's educational program.
- (Source: Repealed at 22 Ill. Reg. _____, effective _____)
- Section 795.90 Parental Notification
- a) At least ten (10) calendar days prior to the initiation of or the actual modification of the special education services of the student, the parents shall be notified, in writing, of the following:
- 1) The results of the case study evaluation or the multidisciplinary conference.
- 2) The nature of the special education program or services service needed by the student.
- 3) The recommendations for modifying the special education services and the plan for implementing those recommendations.
- 4) Their right to object to the proposed modifications and the specific procedures in making such an objection, including the procedures for requesting an impartial due process hearing as found in 89 Ill. Adm. Code 828.
- b) Record of such notice shall be entered in the student's temporary student record.
- (Source: Amended at 22 Ill. Reg. _____, effective _____)
- Section 795.100 Parental Consent to Proposed Modifications
- a) If the parents consent to the proposed modifications, they may waive the ten (10) calendar day interval, and the student shall be placed in the recommended program as soon as practicable.
- b) Pursuant to Section 795.90(a)(4), if the parents object to the proposed modifications (any change in the current IEP pursuant to Section 795.80(d)), within ten (10) calendar days after of notification of proposed modifications, they shall contact the State School indicating their objection. The State School shall then, within ten (10) calendar days after of receipt of the parents objection,

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

to supervise the provision of special education, the referring local school district, and other individuals having significant information, knowledge or special experience, at the discretion of the parent, the State School or local school district.

- a) Utilizing appropriate evaluation information, including teacher and parent opinions, the annual review shall determine the extent to which the student has met the objectives and goals as specified in the student's IEP and recommend further evaluation or revise the student's IEP.
- b) When further evaluation is indicated, pursuant to the annual review, a review of the student's status as requested by the teachers, parents, other knowledgeable persons, or as a result of an impartial due process hearing, such an evaluation shall be completed within sixty--(60) school days of the request.
- c) A reevaluation of the student shall be conducted every three years, or more frequently if conditions warrant, or if the student's parent or teacher requests an evaluation.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 795.140 Written Notification of Continuation to Parents

Written notification regarding the continuation of the student's special education placement shall be provided to the parents of the student and the local school district of--parentat/student-residence as soon as possible but no later than thirty--(30) calendar days prior to the beginning of each school year.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 795.150 Written Notification to State School Superintendent

Written notification to the State School superintendent regarding the anticipated continuation or withdrawal of a student from a State School shall be provided by the parents and the local school district of--parentat/student residence as soon as possible but no later than thirty--(30) calendar days prior to the beginning of the next school year.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

arrange a conference with the parents in an attempt to resolve the disagreement. If the parents continue to object to the proposed modifications, they may appeal by requesting an impartial due process hearing. Such a request shall be made in writing to the superintendent of the State School. Rules for due process hearings are set forth in 89 Ill. Adm. Code 828 and 23 Ill. Adm. Code 226.600 226-605 - 226.695 226-625.

- c) Receipt of a request for an impartial due process hearing shall cause the State School to postpone its proposed modifications of the special educational services until the matter is resolved.
- d) The student shall remain in his/her current educational program, unless:
 - 1) an agreement is reached between the parents and the State School; or
 - 2) Section 827.80 89-1111-Adm--Code-755-260(t) applies.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 795.120 Modifications or Changes

Modification or changes shall be made as soon as possible after the determination and agreement to the need for such modifications but in no case later than the beginning of the next school semester.

- a) When modification of the special education services is not possible prior to the next school semester, the State School shall be responsible for providing interim services as appropriate to the student's needs as possible unless Suspensions, Changes in Placement, and Discharges of Students Who are Dangerous to Themselves or Others (89 Ill. Adm. Code 827.80 755-260(g)-(t)) or Interim Services (89 Ill. Adm. Code 827.70 755-250) applies.
- b) The State School shall provide written notification to the parents of the student and the local school district of parental/student residence regarding the nature of the services the student will receive in the interim. Written verification of the provision of these services shall be kept in the student's temporary record.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 795.130 Review of Educational Status and Continued Special Education Placements

In addition to initial placement conferences and/or IEP meetings, the educational status and continued special education placement of each student shall be reviewed at least annually in a conference attended by those professional persons working with the student, the parents, the student where appropriate, the special education administrator or designee who is qualified

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Impartial Due Process Hearing2) Code Citation: 89 Ill. Adm. Code 8003) Section Numbers: Proposed Action:

800.10	Repealed
800.20	Repealed
800.190	Repealed
800.280	Repealed

4) Statutory Authority: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].5) A Complete Description of the Subjects and Issues Involved: This Part is being repealed. The new Impartial Due Process Hearings language is found in Part 828.6) Will this proposed rule replace an emergency rule currently in effect?
No7) Does this rulemaking contain an automatic repeal date? No8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No9) Are there any other amendments pending on this Part? No10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.A) Types of small businesses, small municipalities and not for profit corporations affected: NoneB) Reporting, bookkeeping or other procedures required for compliance: NoneC) Types of professional skills necessary form compliance: None13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Repealer begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

TITLE 89: SOCIAL SERVICES

CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 800

IMPARTIAL DUE PROCESS HEARING (REPEALED)

Section	Mediation
800.10	Request for a Level I Hearing
800.20	Request for a Hearing (Repealed)
800.30	Letters to be Sent by the State School (Repealed)
800.40	Denial of Hearing (Repealed)
800.50	List of Hearing Officers (Repealed)
800.60	Selection of Hearing Officer (Repealed)
800.70	Direction of Hearing (Repealed)
800.80	Time and Place of Hearing (Repealed)
800.90	Rights of Parents (Repealed)
800.100	Hearing Officer Responsibilities and Authority (Repealed)
800.110	Establishment of Issues, Introduction of Evidence, and Conclusions (Repealed)
800.120	Establishment of Issues Regarding Other Controversies (Repealed)
800.130	Presentation of Evidence (Repealed)
800.140	Right to Present Testimony (Repealed)
800.150	Rules of Evidence (Repealed)
800.160	Record of Hearing Proceedings (Repealed)
800.170	Hearing Officer's Decision (Repealed)
800.180	Filing of an Appeal
800.190	Appeal Form (Repealed)
800.200	Postponement of the Changes Pending Completion of Hearing (Repealed)
800.210	Hearing Panel (Repealed)
800.220	Consideration of Appeal (Repealed)
800.230	Report of the Panel (Repealed)
800.240	Copies of the Decision (Repealed)
800.250	Decision to be Final (Repealed)
800.260	Appeal by Aggrieved Parties (Repealed)
800.270	Civil Action
800.280	

AUTHORITY: Implementing Section 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 18, 1982; codified at 6 Ill. Reg. 13375; emergency amendment at 10 Ill. Reg. 5602, effective March 25, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 15257, effective September 9, 1986; amended at 12 Ill. Reg. 14027, effective August 19, 1988; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; repealed at 22 Ill. Reg. _____, effective _____.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

Section 800.10 Mediation

- a) Informal procedures and mediation are not required, but encouraged. Regardless of whether informal procedures are used, if differences remain between the State School and the parents or other persons having primary care and custody of the student (hereinafter "parent") or the student, mediation may be requested. This mediation differs from the impartial due hearing process described in the remainder of this Part in that it is an attempt to reach agreement between the involved parties, rather than a decision by an impartial hearings officer.
- b) The party requesting mediation must send a written request to the Department of Human Services (DHS), outlining the problem and steps taken to resolve it.
- c) DHS shall maintain a mediation panel to handle mediation requests. The panel shall be composed of representatives from each of the following units of DHS: the Administration of the Bureau of Rehabilitation Services, the Client Assistance Program, and Policy/Staff Development.
- d) The Secretary shall immediately assign one member of the mediation panel to the case who within ten working days shall:
 - 1) Obtain any needed preliminary information about the difference.
 - 2) Meet with the parents and the superintendent/designee in an effort to mediate the difference.
 - 3) If a resolution cannot be reached at said meeting, prepare a recommended resolution and submit it to the parents and the superintendent. If, within five working days, both sides do not accept the mediator's recommended resolution, the matter will be closed and a Level I hearing may be requested pursuant to Section 800.2.
- e) The parents have the right to:
 - 1) be accompanied at meetings and mediation sessions by anyone of their choosing;
 - 2) agree in writing to extend the above time limitation for mediations, and
 - 3) request that the mediation and the initial steps (those prior to the appointment of the hearing officer) of the Level I due process hearing procedure (outlined in Section 800.20) occur concurrently (see 23 Ill. Adm. Code 226.605-226.625).
- f) Neither the State School nor the Secretary shall use the mediation process to deny or delay parents' rights under the Level I due process hearing procedures.

Section 800.20 Request for a Level I Hearing

A Level I hearing may be requested by the parents or other persons having primary care and custody of the child, the child or the State School in accordance with the Illinois State Board of Education's (ISBE) rules (23 Ill.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

Adm. Code 226.605 through 226.675) with the modifications listed below. In matters directly relating to such Level I hearings, the State School shall stand in the same relationship to the ISBE as a local school district.

a) Modifications of 23 Ill. Adm. Code 226

- 1) Section 226.605(b)(2),(3),(6),(7) and (14) - Substitute: "State School" for "local school district."
- 2) Section 226.605(b)(13) - Substitute: "Failure of the State School to comply with DHS rules (89 Ill. Adm. Code 750 through 825)" for the existing language.
- 3) Section 226.620(b)(1) and (c)(1) - Substitute: "resident of the state" for "resident of the district."
- 4) Section 226.625(a)(1) - Substitute: "in the city where the State School is located or in the local school district of parental/student residence for "in the school district."
- 5) Section 226.625(a)(2) - Add: "or by the State School or by DHS" after the existing language.
- b) In the course of a Level I hearing, both the State School and the ISBE shall send the Secretary of DHS and the local school district of parental/student residence copies of all correspondence each sends the other.

Section 800.190 Filing of An Appeal

Any party aggrieved by the decision of the Level I hearing officer pursuant to Section 800.180 may file for a Level II review in accordance with the Illinois State Board of Education's rules 23 Ill. Adm. Code 226.680 through 226.695. In matters directly relating to such reviews, the State School shall stand in the same relationship to the State Board of Education as a local school district.

Section 800.280 Civil Action

Any party aggrieved by the Level II reviewing officer's decision may bring a civil action as set forth in 89 Ill. Adm. Code 226.692(b) in any court of competent jurisdiction. Such filing of a civil action shall act as a supersedeas, and implementation of the reviewing officer's decision shall be stayed pending judicial action.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULE

1) Heading of the Part: Impartial Due Process Hearing

2) Code Citation: 89 Ill. Adm. Code 828

3) Section Numbers: Proposed Action:

828.10	New Section
828.20	New Section
828.30	New Section
828.40	New Section
828.50	New Section
828.60	New Section
828.70	New Section
828.80	New Section
828.90	New Section
828.100	New Section

4) Statutory Authority: Implementing Sections 10 and 11 and authorized by Section 3(f) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/10,11 and 3(f)].

5) A Complete Description of the Subjects and Issues involved: This proposed rule creates a new Part that replaces Part 800 (repealed) and sets forth the process for impartial due process hearings.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
Telephone number: (217) 785-9772

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULE

TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendment(s) begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULE

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 828

IMPARTIAL DUE PROCESS HEARING

828.10	Scope and Purpose
828.20	General Information
828.30	Disciplinary Appeals
828.40	What May Not Be Appealed
828.50	Impartial Due Process Hearing
828.60	Procedures for Hearing Request
828.70	Denial of Hearing Request
828.80	Rights of the Parties Prior to the Hearing
828.90	Powers and Duties of Hearing Officer
828.100	Decision of the Hearing Officer

AUTHORITY: Implementing Sections 10 and 11 and authorized by Section 3(f) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/10, 11 and 3(f)].

SOURCE: Adopted at 22 Ill. Reg. _____, effective _____.

Section 828.10 Scope and Purpose

This Part sets forth the procedures for appealing decisions made by State Schools and the rights of the students and other involved parties. State Schools shall follow the procedures as set forth by the Illinois State Board of Education's Due Process System at 23 Ill. Adm. Code, Subpart J. If there are any discrepancies between this Part and the rules of the State Board of Education, the rules of the State Board of Education shall be utilized.

Section 828.20 General Information

Any and all notices and communications made pursuant to this Part shall be in writing, in a language that the student understands, unless the student is unable to communicate in writing. All non-written communications must be documented.

Section 828.30 Disciplinary Appeals

Disciplinary actions taken as a result of simple infractions listed in the State School's Rights, Responsibilities and Procedures Handbook are not appealable under this Part. This handbook is provided to parents and students annually. A student or parent has the right and is encouraged to speak with the disciplinary officer or the superintendent concerning minor discipline. Information regarding appeals of disciplinary action are found in 89 Ill. Adm.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULE

Code 827.40.

Section 828.40 What May Not be Appealed

- a) The following matters are not appealable under this Part, but are appealable under DHS appeals rules found at 89 Ill. Adm. Code 510, Appeals and Hearings.

- 1) Matters concerning sex equity or discrimination on the basis of sex as prohibited by the Illinois School Code [105 ILCS 5/10-22.5 and 27-1] and the Education Amendments of 1972 (20 USC 1681). Matters of sex equity may ultimately be appealed to the State Superintendent of Education.
- 2) Matters concerning student records as set forth in the Illinois School Student Records Act [105 ILCS 10] and the Family Educational Rights and Privacy Act of 1974 (FERPA) (20 USC 1232g).
- 3) Matters concerning Vocational Rehabilitation Services under the federal Rehabilitation Act (29 USC 701 et seq.).
- b) Changes in services or procedures over which DHS exercises no discretion or control.
- c) Issues related to the legality of DHS rules.
- d) Changes in services or procedures that are mandated by federal or State law or regulation.

Section 828.50 Impartial Due Process Hearing

- a) A parent or a student may request an impartial due process hearing.
- b) A hearing may be requested for, but not limited to, the following reasons:

- 1) Objection to signing consent for a proposed case study evaluation or initial placement.
- 2) Failure of the State School, upon request of the parents, other persons having primary care and custody of the student, the student, or the State Board of Education (State Board), to provide a case study evaluation.
- 3) Failure of a local school district to consider evaluations completed by qualified professional personnel outside the local school district.
- 4) Objection to a proposed special education placement, i.e., an initial placement, a continuation of a previous placement, or a change in the placement.
- 5) Termination of a special education placement.
- 6) Failure of the State School to provide a special education placement consistent with the finding of the case study evaluation and the recommendations of the multi-disciplinary conference.
- 7) Failure of the State School to provide the least restrictive special education placement appropriate to the student's needs.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULE

Code 827.40.

- 8) Provision of special education instructional or resource programs or related services in an amount insufficient to meet the student's needs.
- 9) Recommendation for the graduation of a student.
- 10) Failure of the State School to comply with any provision of this Part.

- c) Receipt of a request for an impartial due process hearing shall cause the student to remain in his or her current educational placement, unless a mutual agreement is reached between the parents and the State School.

Section 828.60 Procedures for Hearing Request

The State School, the parent of any student, or the student may request an impartial due process hearing. A parent's or student's request for a hearing shall be made, in writing, to the superintendent of the State School.

- a) If the State School makes the request, a written request shall be sent in to the Illinois State Board of Education, attention Division of Program Compliance, in Springfield, and at the same time a copy shall be sent to the other party. This letter shall include the information set forth in subsections (b)(1)(A), (C) and (D) of this Section.
- b) Within five days after the State School receives a request for a hearing from a parent or from a student, the State School shall:

- 1) Send a certified letter to the Division of Program Compliance requesting the appointment of an impartial due process hearing officer. This letter shall be delivered by a means that provides written evidence of the delivery and shall include:
 - A) the name, address and telephone number of the student and the parent, and of the person making the request for the hearing, if it is someone other than the student or parent;
 - B) the date on which the request for the hearing was received by the State School;
 - C) the nature of the controversy to be resolved;
 - D) the primary language spoken by the parents and student; and
 - E) a copy of the parent's request.

- 2) Send to the person requesting the hearing, by certified mail or other means providing written evidence of delivery, a copy of the letter sent to the State Board.
 - A) If the hearing has been requested by someone other than the student's parents, the State School shall inform the parents by certified mail of the request and invite them to participate in the proceedings.
 - B) Copies of all correspondence pertaining to impartial due process hearings shall be forwarded to the DHS-ORS Director of Educational Services.

Section 828.70 Denial of Hearing Request

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULE

A request for an impartial due process hearing may not be denied for any reason.

Section 828.80 Rights of the Parties Prior to the Hearing

- a) The parties have the right to be represented at their own expense by counsel, or to be represented and assisted by other persons having special knowledge of this Part. The State School shall inform the parents of any free or low cost legal services that may be available in their area, and of the availability of publicly funded advocacy services.
- b) The parents may inspect and review all records pertaining to their child and, subject to the provisions of 23 Ill. Adm. Code 375.50 (Student Records), may obtain copies of any such records at their own expense.
- c) The parents shall have access to the State School's list of independent evaluators, and may obtain an independent evaluation of their child at their own expense. If acquisition of a completed independent evaluation requires a delay in convening the hearing, the parents shall request such delay as provided in Section 828.100(c) of this Part. The hearing officer shall delay the hearing until such time as the independent evaluation is completed, the report is available, and the opposing party has been afforded, in the judgment of the hearing officer, a reasonable opportunity to review it. The parents may ask the hearing officer to determine whether an independent evaluation is needed. If the hearing officer concludes, after reviewing the available information, that an independent evaluation is necessary to inform the hearing officer concerning the services to which the student may be entitled, it shall be so ordered and provided at the State School's expense. The hearing officer shall delay the hearing as provided for in this subsection.
- d) Either party to the hearing has the right to the disclosure at least five days prior to the hearing of any evidence to be introduced.
- e) Either party may compel the attendance of any State School employee at the hearing, or any other person who may have information relevant to the needs, abilities, the proposed program, or the status of the student. At the request of either party, the hearing officer shall issue subpoenas to compel the testimony of witnesses or the production of documents relevant to the case at issue. If any person refuses to comply with a subpoena issued under Section 828.90(e) of this Part, court action may be sought as provided in Section 14-8.02a(g) of the School Code.
- f) Either party, or any person participating in the hearing, may request that an interpreter be available during the hearing because one of the participants is hearing impaired and/or uses a primary language other than English. Such interpreters shall be provided at DHS expense.
- g) The student's educational placement shall not be changed pending completion of the hearing except as provided in Section 14-8.02a(j) of

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULE

the School Code.

Section 828.90 Powers and Duties of Hearing Officer

- a) Once appointed, the impartial due process hearing officer shall not communicate with the State Board, the State School, or their employees concerning the hearing and shall not initiate or participate in any ex parte communications with the parties, except as provided in Section 14-8.02a(g) of the School Code.
- b) The hearing officer shall disclose any actual or potential conflict of interest to the parties upon learning of such a conflict.
- c) The hearing officer shall conduct the hearing and shall have, but not be limited to, the following powers:
 - 1) To administer, or to authorize the court reporter to administer, oaths;
 - 2) To examine witnesses;
 - 3) To issue subpoenas;
 - 4) To rule upon the admissibility of evidence;
 - 5) To order independent evaluations;
 - 6) To grant specific extensions of time;
 - 7) To read into the hearing record any stipulations of fact and other matters agreed upon at the pre-hearing conference and to enter into the record any pre-hearing orders;
 - 8) To render decisions and issue orders and clarifications.
- d) The hearing officer shall comply with applicable timelines established in Section 14-8.02a of the School Code.

Section 828.100 Decision of the Hearing Officer

- a) Within ten days after the conclusion of the hearing, the hearing officer shall issue a written decision that sets forth the issues in dispute, findings of fact based upon the evidence and testimony presented, and the hearing officer's conclusions of law and orders. The hearing officer shall determine whether the evidence establishes that the student has needs that require special education services, and if so whether such services proposed or provided by the State School are appropriate given the student's identified needs.
- b) The hearing officer's decision shall be sent by certified mail to the involved parties. The decision shall be translated into the native language of the parents if their primary language is other than English.
- c) The written decision shall be binding upon the parties unless a party aggrieved by the decision commences a civil action as provided in Section 14-8.02a(i) of the School Code. Such filing of a civil action shall act as a supersedeas, and implementation of the hearing officer's decision shall be stayed pending judicial review.
- d) The hearing decision, if not appealed pursuant to subsection (c) of this Section, shall be enforced by the State School.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Non-Academic Programs and Policies

- 2) Code Citation: 89 Ill. Adm. Code 830

- 3) Section Numbers:

830.10	Amendment
830.15	Amendment
830.20	Amendment
830.30	Amendment
830.40	Amendment
830.50	Amendment
830.60	Amendment
830.70	Repealed
830.80	Amendment
830.90	Amendment
830.100	Amendment
830.110	Amendment
830.120	Amendment
830.130	Amendment
830.140	Amendment
830.150	Amendment
830.160	Amendment
830.170	Amendment
830.180	Amendment
830.190	Amendment

- 4) Statutory Authority: Implementing Sections 10 and 11 and authorized by Section 3(f) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/10, 11 and 3(f)].

- 5) A Complete Description of the Subjects and Issues involved: This Part makes minor text changes throughout the Part. Section 830.50 has been reworded to provide clarity.

- 6) Will this proposed rule replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed amendment contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Register. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield IL 62762
(217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendment(s) begins on the next page:

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATION FACILITIES

PART 830
NON-ACADEMIC PROGRAMS AND POLICIES

Section

830.10 The Taking and Using of Students' Photographs
830.15 Locally Held Funds
830.20 Needy Student Fund
830.30 Student Trust Fund
830.35 Student Activity Fees
830.40 Valuables
830.50 Health Services
830.60 Search and Seizure
830.70 Rights and Responsibilities of School Staff (Repealed)
830.80 Food and Nutrition
830.90 Safety and Sanitation
830.100 Donations

830.110 Release of Students to Authorized Individuals
830.120 Use of Motor Vehicles by Students
830.130 Student Activities Requiring Approval of Parents/Guardians
830.140 Visits to State Schools
830.150 Behavior Intervention
830.160 Profit on Sales from Commissary Stores
830.170 Receipts from Athletic, Musical and Other Events
830.180 Transportation Fund
830.190 Use of Tobacco Products on State School Property

AUTHORITY: Implementing Sections 10 and 11 and authorized by Section 3(f) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/10, 11 and 3(f)].

SOURCE: Adopted at 11 Ill. Reg. 15097, effective September 16, 1987; amended at 12 Ill. Reg. 14304, effective August 29, 1988; amended at 15 Ill. Reg. 6272, effective April 15, 1991; amended at 15 Ill. Reg. 17370, effective November 19, 1991; amended at 17 Ill. Reg. 6248, effective April 5, 1993; amended at 18 Ill. Reg. 14240, effective September 1, 1994; amended at 19 Ill. Reg. 15737, effective November 7, 1995; amended at 20 Ill. Reg. 15610, effective November 22, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. _____, effective _____.

Section 830.10 The Taking and Using of Students' Photographs

- a) Department of Human Services (DHS) employees will not be permitted to take or use a photograph of a student which would demean or embarrass the student or would not be considered by reasonable viewers to

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

represent the student in a positive or favorable manner. Photographs of a student will only be taken or used by a DHS employee when the permission of the student's parent or guardian, or the student (when the student is 18 or over) has been obtained.

- b) The superintendent of the State School school-for-the-superintendent's designee shall not authorize any person(s) not employed by DHS to photograph a student on campus, nor will the State School school provide a photograph to such a person(s) unless the superintendent or designee knows the purpose for which the picture will be used and has assurance that that person(s) will observe the standards as set forth in subsection (a). Insofar as possible, photographs of a student will only be taken or used when the permission of the student's parent or guardian, or the student (when the student is 18 or over) has been obtained.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 830.15 Locally Held Funds

- a) Pursuant to 20 ILCS 2405/13(i), Illinois School for the Deaf (ISD), Illinois School for the Visually Impaired (ISVI), and Illinois Center for Rehabilitation and Education - Roosevelt (ICRE-R) shall each maintain accounts of locally held funds for the purpose of providing benefits, amusement, and special services to the students of each State School school.
- b) Locally held funds are non-appropriated monies received by either ISD, ISVI, or ICRE-R from any source including grants, bequests, and gifts.
- c) All locally held funds shall be established and all activity regarding the funds reported pursuant to Section 33.10 of the Comptroller's Unified Statewide Accounting System (CUSAS).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 830.20 Needy Student Fund

- a) Each State School school shall maintain a Needy Student Fund to provide for the special comfort, pleasure and amusement of the students, or for students having few little or no personal financial resources.
- b) All interest and income earned on student trust funds and funds specifically donated for the purpose of providing support for students having few little or no personal financial resources shall be deposited in this fund.
- c) Expenditures from this fund may be authorized by the superintendent for-the-superintendent's-designee at the request of a student and/or staff member for the purposes stated in subsection (a). In

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

determining whether to authorize expenditures from the Needy Student Fund, the superintendent shall consider the amount of funds available, the purpose of the expenditure, and the needs and resources of the student. Documentation of all expenditures must be maintained.

d) These funds and the records pertaining to such funds shall be subject to audit by DHS internal auditors and by the Auditor General of the State of Illinois.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 830.30 Student Trust Fund

- a) Students are encouraged not to keep substantial amounts of money, based on the age and maturity level of each student, on their persons or in their rooms, but to deposit it in the Student Trust Fund. Money can be deposited in the Student Trust Fund by the student or parents in person or by mail. A receipt shall be provided to the depositor.
- b) Any restrictions or special considerations which the parents or guardians wish to apply to the student's withdrawals from the Trust Fund must be communicated in writing to the superintendent ~~for~~ the superintendent's designee each year or when changes are to be made.
- c) Students may make withdrawals, subject to any limitations the parents have imposed as set forth in subsection (b), of their money from the Trust Fund in increments of their choosing. However, if a student requests an unusually large amount, based on the age and maturity level of each student, he or she shall be asked to explain the need and the parents will be contacted before the request will be approved. A dated, signed form acknowledging receipt must be completed at the time of withdrawal.

- d) Parents or the students will be informed of the student's balance in the fund on a quarterly basis.

- e) The Student Trust Fund is subject to the usual accounting controls (74 Ill. Adm. Code 245) and to audits by DHS internal auditors and by the Auditor General of the State of Illinois.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 830.35 Student Activity Fund

- a) Student activity fees are \$30 per year for high school students and \$20 per year for elementary school students. These fees should be paid at the beginning of the school year. The Needy Student Fund is available to assist in paying a student's activity fees, in accordance with Section 830.20.

- b) All student activity fees shall be placed in a locally held fund and may be spent for the special comfort, pleasure, and amusement of the

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- c) students. Documentation of all expenditures must be maintained. These funds and the records pertaining to such funds shall be subject to audit by DHS internal auditors and by the Auditor General of the State of Illinois.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 830.40 Valuables

A The State School school has no responsibility or authority to provide funds to replace or repair the student's personal valuables, e.g., jewelry, radios, televisions, tape recorders, which are lost, damaged, or stolen unless due to staff negligence.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 830.50 Health Services

- a) The State Schools will provide school health services, including routine services such as cough medicine, bandages, cotton swabs, and non-prescription drugs, and occupational and physical therapy. A seven day a week health center is provided at ISD to serve the students of ISD and ISVI who are too ill to stay in the dormitory, but not sufficiently ill to require hospitalization. There is an infirmary at ICRR-R for students requiring routine health services, as well. ICRR-R does not provide services required at a hospital or that are beyond the scope of medical facilities at ICRR-R.

- b) No State School provides related services requiring medical devices or the services of a physician even if listed in the IEP. These needs and medical and nursing care that are not routinely provided at the State Schools will be determined in the IEP. Any such needs required by the IEP are the responsibility of the local school district.

- c) Parents are not required to use private insurance proceeds to pay for services that must be provided by IDEA or under an IEP unless they will incur no financial cost. Financial cost includes a deductible or co-pay amount, a decrease in available lifetime coverage or any other benefit under an insurance policy or an increase in premiums or the discontinuation of the policy, but does not include time, postage or other incidental costs.

- d) Parents are expected to use their own resources, including private insurance, and to apply for Medicaid, if appropriate, to pay for services for their children not required to be provided by the State Schools under this Part or by the local school district under IDEA or Illinois State law.

- e) Assistance will be provided to parents in locating medical services beyond those described in subsections (b) and (c) of this Section.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- DHS-ORS State Schools will not pay for such services.
- a) The Illinois Center for Rehabilitation and Education--Roosevelt Center--provides comprehensive medical, nursing, physical therapy, occupational therapy and nutrition services, complete with both prescription and non-prescription medications, supplies and devices for its students.
- b) The Illinois School for the Deaf (ISD) and the Illinois School for the Visually Impaired (ISVI) provide part-time physicians, full-time nurses, such as speech therapists, bandages and cotton swabs, and services of occupational and physical therapists to handle the health and treatment programs for their students--in addition, a seven-day-a-week infirmary is provided at ISD to serve the students of ISD and ISVI who are too ill to stay in the dormitory, but not ill enough to require hospitalization.
- c) Each school will provide assistance to parents in locating sources of or arranging for needed medical services which are beyond those described in subsections (a) or (b) above, providing there is a clear understanding that the school will not pay or be responsible for such services.
- f) If a student receives medical treatment other than that prescribed by school health officials, the parents/guardian must inform school staff of such treatment and provide written medical information pertinent to that treatment.
- g) Each State School school shall comply with Section 27-8.1 of the School Code [105 ILCS 5/27-8.1] in matters pertaining to immunization of its students. In addition, at the direction of the State School's school's physician and superintendent, authorized medical staff at the State School school shall immunize students for communicable diseases provided:
- 1) the Illinois Department of Public Health (DPH) recommended the immunization due to a time limitation or unusual situation;
 - 2) the local public health agency provides the vaccine at no cost to the State School school or the superintendent determines, in consultation with the school physician, an emergency situation exists and the need is so urgent that the vaccine should be purchased from State School school funds; and
 - 3) the parents have given their consent if the student is under 18 years of age, or the student has given his or her consent if the student is 18 years old or older.
- h) HIV Testing.

- 1) In compliance with the AIDS Confidentiality Act [410 ILCS 305] (AIDS Act) and rules of the Department of Public Health (77 Ill. Adm. Code 697 - AIDS Confidentiality and Testing Code), a student may not be tested for human immunodeficiency virus (HIV) unless:
 - A) the student or legally authorized representative consents in writing, or
 - B) a DHS State School school employee has had an accidental direct skin or mucous membrane contact with the student's

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

blood or body fluids which is of a nature that may transmit HIV, as determined by a physician in his or her medical judgement.

2) Test Information and Counseling. In compliance with the AIDS Act [410 ILCS 305], if an HIV test is ordered by a school physician, whether or not written or informed consent of the student or legally authorized representative has been given, the physician must provide the student with information, including:

- A) the meaning of test results;
 - B) additional or confirmatory testing, when appropriate; and
 - C) referrals for further information or counseling.
- 3) Disclosure of test results. The person performing the test shall only disclose results to the following people, who shall not redisclose the results, except as authorized by the AIDS Act:
- A) the student or his or her legally authorized representative;
 - B) anyone designated in a express release executed by the student or legally authorized representative;
 - C) the State School school employee who has had accidental contact as described in subsection (f)(2) above;
 - D) the DPH (any redisclosure by a DPH employee in violation of the AIDS Confidentiality Act will result in disciplinary action taken by DPH); and
 - E) an employee of the State School school if he or she provides the student with medical services or such care as may involve contact with blood or body fluids of a student and the employee has a need to know such information (e.g., an employee has been involved in accidental direct skin or mucous membrane contact with the blood or bodily fluids of an individual with AIDS). Any redisclosure by a DHS employee in violation of the AIDS Confidentiality Act will result in disciplinary action taken by DHS.

1) In compliance with the Communicable Disease Prevention Act [410 ILCS 315] the DPH or local public health department shall inform the facility administrator that a student has been diagnosed as having AIDS or AIDS-related complex or has been exposed to HIV. The facility administrator shall not disclose such information except to the following (who shall not redisclose the results except as authorized by the AIDS Act) and then only if the facility administrator then finds it necessary for the safe and effective administration of the State School school and its programs:

- 1) the principal of the State School DHS-school;
- 2) the teachers in whose classes the student is enrolled;
- 3) the Infectious Disease Control Committee (i.e., facility administrator, head nurse and facility physician);
- 4) the school nurse; and
- 5) any other person that the facility administrator deems has a need to know, who has been involved in an accidental direct skin or mucous membrane contact with the blood or bodily fluids of an

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

individual with AIDS, but the student's identity must remain confidential cannot be revealed.

1) Each State School school will adhere to a consistent policy with regard to a diagnosis of Pedicular Humanus Capitis (head lice) by the school physician or nurse when discovered in the student population.

1) Residential students will be treated by the nurse nurse applying a 1% Permethrin cream rinse as soon as the first available time the day the head lice is discovered. Parents/guardians guardians will be contacted advising them their child has been treated by the nursing staff for head lice.

2) Non-residential students will have a phone call made to the affected student's parents/guardian informing them of the diagnosis of head lice, and that the student must be removed from the State School school as soon as possible. The recommendation will be made to seek treatment from a physician and that all household members be treated. They will be informed that the student will not be allowed to return to the State School school until treatment has been completed.

In the event a parent of a non-residential student cannot be contacted within a two hour time frame, the school nurse will treat the student to facilitate returning the student to the school classroom until the parent is contacted. If the clothing of a non-residential student is infested, temporary clothing will be issued while the student's clothes are being laundered.

3) A school nurse will evaluate all all roommates and classmates will be evaluated for the presence of nits (lice eggs) or other evidence of infestation by the school nurse.

4) Residential students will not be allowed to return to the State School school until they have been treated by the nursing staff. Non-residential students must present proof of appropriate treatment (e.g., note from physician, copy of prescription, proof of purchase of an over the counter product for the treatment of head lice) before returning to the State School school. Upon return to the State School school the student will be re-examined by the nurse prior to admission.

5) The nursing staff will again examine the affected student in 7 to 10 days.

6) All potentially infected environmental surfaces and clothing of residential students that could have been infected will be treated by the facility staff to prevent re-infection of the student population.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 830.60 Search and Seizure

a) The superintendent or designee of a State School school has the

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

authority to approve the search of any student's person, locker, room or property when the superintendent/designee has a reasonable belief that the student has alcohol, drugs, a weapon, stolen goods or any other item prohibited by the State School's school's rules. Any search of person must be made by staff of the same gender as the student being searched with another staff person present as a witness.

b) Any contraband, as defined by 89-III-Adm-Code-837 and the Criminal Code of 1961 [720 ILCS 5 et seq.], found during the search shall be seized and held until its proper disposition is determined through consultations with Central Office staff or local or state law enforcement officials as indicated by the situation.

c) The superintendent shall not approve a search as a means of embarrassing or punishing a student. Insofar as feasible, any search shall be made in such a manner that it is not observed by or known to other students.

d) Nothing in this policy shall be construed to prohibit State School school staff and representatives from various regulatory bodies from entering students' rooms in the course of their normal duties.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 830.70 Rights and Responsibilities of School Staff (Repealed)

School staff shall maintain discipline at the school to insure the proper conduct and safety of the students in all matters relating to the discipline in and conduct of the school and the school children these staff stand in the relation of parents/guardians to the pupils this relationship shall extend to all activities on and off campus connected with the school program and may be exercised at any time for the safety and supervision of the pupils in the absence of their parents/guardians Nothing in this Section affects the power of the Department to establish rules with respect to discipline

(Source: Repealed at 22 Ill. Reg. _____, effective _____)

Section 830.80 Food and Nutrition

Each State School school shall:

a) provide food which is prepared and served under sanitary conditions as found in the Department of Public Health's Food Service Sanitation Code at set forth in 77 Ill. Adm. Code 750.

b) provide medically prescribed diets as needed.

c) serve three balanced meals, as approved by the State School's school's medical personnel, each day and shall maintain a record of the menus of the food actually served, which shall be retained and be available for review for a period of at least one year.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 830.90 Safety and Sanitation

a) Each State School school shall request:

- 1) at least an annual inspection by the Illinois Department of Public Health or the local health department of all its buildings which are used by the students. These inspections shall give special attention to dietary service; health service; lavatory, bath, and toilet facilities; pest control; and ventilation.
- 2) at least an annual inspection of all its buildings and related systems by the State Fire Marshal and/or the local fire department.
- 3) the resources of the Capital Development Board and the Department of Central Management Services, as needed, in the maintenance and repair of its buildings.

b) Each State School school shall comply with the Illinois Department of Labor's Health and Safety rules set forth at 56 Ill. Adm. Code 350 in relation to the safety of the State School's employees school's employees and insofar-as-they-relate-to-the-safety-of--the-school's students.

c) Each State School school superintendent shall fulfill his or her responsibilities for maintaining the State School's school's grounds and buildings in such a manner that there will be no unusual hazards which will endanger students, staff, or the public.

d) To the extent that funds are available, each State School school shall maintain equipment in good repair, but regardless of funds:

- 1) all boilers shall be installed, maintained, repaired and inspected per 41 Ill. Adm. Code 120, in accordance with the schedules and procedures specified by the State Fire Marshal.
- 2) all elevators shall be inspected in accordance with the schedules and procedures specified by the responsible agency in the city in which the State School school is located.
- 3) all x-ray equipment shall be inspected in accordance with the schedule and procedures specified by the Illinois Department of Energy and Natural Resources (32 Ill. Adm. Code 310.50).

e) Each State School school shall maintain written plans for such emergencies as fires and tornadoes. The plan for fire drills shall include all of the requirements of the State Fire Marshal's rules concerning fire drills in the State Schools at Marshal-contained-in 41 Ill. Adm. Code 110.20 and shall be explained to all students and staff. At least one drill each school year shall be at a time when most of the students are normally asleep.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 830.100 Donations

- a) Each State School school may accept and hold on behalf of the State, if for the public interest, a grant, gift, or legacy of money or property to the State of Illinois, to the Department, or to any school or program made for any legitimate purpose connected with the State School school or program.
- b) The Department shall cause each grant, gift or legacy to be deposited in a distinct fund or in the "DHS State Project Fund" or a fund held locally by a State School school, depending on the purpose for which the gift was given.
- c) Each grant, gift, or legacy shall be used for the purpose for which it was given. Grants, gifts, or legacies with no designated purpose will be designated by the Associate Director or--designee when the value exceeds \$500-00. The Superintendent administrator of the facility will place grants, gifts, or legacies less than \$500-00 in the Needy Student Fund.
- d) If a donation of goods or property is made to the State School school or any of its units, it should be explained to the donor that once such a gift is donated, it becomes state property, unless otherwise stipulated in writing.
- e) These funds and the records pertaining to such funds shall be subject to audit by DHS internal auditors and by the Auditor General of the State of Illinois.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 830.110 Release of Students to Authorized Individuals

a) The State School school will not authorize one of its students to leave campus with an individual(s) other than the student's parents/guardian or staff or a student of the State School school unless:

- 1) the State School school has on file a written statement signed by the student's parents/guardian granting permission for the individual(s) in question to take their child off campus, or
- 2) the student's parents/guardian have telephoned appropriate staff to grant permission for the individual(s) in question to take their child off campus. Staff receiving such a call must submit a written memorandum with all pertinent information (i.e., date, time, student's name, name and contact information of person being given permission to take the student, length of time the student will be away, where the student will be) to the superintendent/designee for approval before the student may leave campus.

b) Persons not known to the State School school staff shall be required to provide a driver's license (with photo) or photo identification

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

card issued by the Illinois Secretary of State to establish their identity prior to a child's release to them.

- c) This policy does not limit students, with the approval of the State School school, from leaving campus individually or in groups to participate in off-campus activities.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 830.120 Use of Motor Vehicles by Students

- a) Unless the vehicle is needed to transport the student to and from the State School school or to meet some justifiable short-term need, students at a State School school are not authorized to have or use personal motor vehicles while under the responsibility of the State School school. Justifiable short-term needs could include:
- 1) a potential emergency situation at home, making it desirable for the student to return home on short notice.
 - 2) bringing the vehicle to the State School school to repair it in one of the State School's school's vocational classes as an educational project.

- b) Authorization for students to have or use personal vehicles while under the responsibility of the State School school can be approved only by the superintendent. In order for a request for such an authorization to be considered, it must be submitted in writing to the superintendent's office and include:

- 1) the reason(s) the student needs to have or use the vehicle.
- 2) the length of time the student will need it.
- 3) the student's driver's license number.
- 4) the name of the company, the policy number and the amount of insurance coverage in effect on the student/vehicle.
- 5) the name of the person who owns the vehicle.
- 6) the parents'/guardian's signed consent if the student is under 18 years of age or the parents'/guardian are legally responsible for the vehicle or the insurance on it.

- c) All approved authorizations are subject to the following stipulations. The vehicle shall:

- 1) be used only for purposes (needs) specified in the request as approved by the superintendent.
 - 2) not be used on school days between the hours of 8:00 a.m. and 3:15 p.m. except in emergencies.
 - 3) not be used to transport other students without the specific written consent of those students' parents.
 - 4) not be used as a meeting place to visit.
 - 5) while on campus and not in use, be parked in the prescribed location and be locked.
- d) Any claims for damages to or by the vehicle shall be the responsibility of the student, the parent/guardian, the insurance

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- e) company or some source other than the State School school. ~~Abandoned--Vehicles---~~Unless prior arrangements are made and approved by the superintendent, if any vehicle is left on the State School school grounds 60 days after the last day of the school year and if the owner fails to respond within 10 days to a registered letter from the superintendent, the vehicle shall be declared abandoned.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 830.130 Student Activities Requiring Approval of Parents/Guardians

Unless a student is 18 years of age or older:

- a) Consent/approval is required at the beginning of each school year for each of the following activities and shall remain in effect for the remainder of that school year or until it is modified or revoked by the parents'/guardian.

- 1) Competing in interscholastic athletic activities. Each sport in which the student may compete during the year must be listed on the consent form.
- 2) Traveling out of state on a school-sponsored activity. The date, destination and purpose of each scheduled out of state trip the student may take during the year must be listed on the consent form.

- 3) Using the student's picture or other identifying information in news releases, brochures or other publication (Section 830.10).
- 4) Leaving campus with someone other than the student's parents'/guardian or a staff member or student of the State School school (Section 830.110). Each person who may take the student off campus during the year must be listed on the consent form.

- b) A specific consent/approval is required prior to each of the following activities and shall remain in effect for only the period specified on the consent form or until it is modified or revoked by the parents'/guardian.

- 1) Receiving the annual flu vaccination when it is available to the students at the State School school (Section 830.50).
- 2) Engaging in such religious activities as baptism, first communion, or confirmation.
- 3) Receiving psychological assessments in such areas as aptitude, general mental ability, personality, achievement and vocational interests (89 Ill. Adm. Code 765.775-10-1b-1-2).
- 4) Receiving ongoing individual or group counseling (89 Ill. Adm. Code 765.775-10-1b-2-3-and-4).
- 5) Including the student or identifying information about him or her in research projects by universities, other agencies, or by individuals (89 Ill. Adm. Code 505).

- c) Students 18 years of age and older that are legally competent have the

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

right to sign consent forms on their own behalf.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 830.140 Visits to State Schools

- a) All visits (e.g., parent-teacher conferences, tours of the State School school facilities and contact by outside agencies, individuals, and businesses regarding materials, services and programs) to the State Schools Department--of--Human--Services--(BHS)--schools from BHS Students' parents and family members, community members, and other interested individuals must be scheduled with the appropriate school superintendent administrator. This policy does not apply to DHS staff or to anyone who is properly on campus (e.g., Client Assistance Program clients at ICRE-R, visitors to the Heritage Cultural Center and parents and children at the Nursery School at ISD), but only while in an area appropriate to the purpose of the visit.
- b) When a visitor to a State School BHS--school arrives on campus, the visitor must proceed to the administration office to receive a visitor's permit.
- c) Visits must be of a duration and manner which is neither disruptive to ongoing programming nor of a threatening or argumentative nature.
- d) The superintendent of the State School school--or--designee shall terminate a visit, and may report the individual(s) responsible to the proper law enforcement agency, if an individual is:
 - 1) in or about any State School school building or grounds without a valid visitor's permit; or
 - 2) engaged in disorderly conduct.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 830.150 Behavior Intervention

- a) Behavior intervention is a therapeutic measure which is to be used only to prevent a student from causing damage to property or physical harm to himself/herself or others. The following procedures shall be used, as part of a behavior modification or management program. In no event shall restraint be used to punish or discipline a student or as a convenience to staff.
- b) Behavior intervention may include physically holding, or otherwise restricting the movement of the student's limbs, head or body. No mechanical or chemical restraint shall be permitted. Medically prescribed or monitored procedures for the treatment of an existing physical condition or the amelioration of a physical disability, such as braces and other medical equipment, are not considered restraints. The partial or total immobilization of a student for the purpose of

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- c) performing a medical/surgical procedure is not restraint. Procedures for the use of physical restraint at the State Schools BHS schools are as follows:

- 1) physical restraint shall be employed in a humane and therapeutic manner. In no event shall restraint be used when it is medically contraindicated (i.e., could adversely affect the health of the student).
- 2) whenever physical restraint is used with a student whose primary communication is sign language, writing, or computer, the student shall be permitted to have his/her hands free from restraint for brief periods, except when freedom may result in physical harm to the student or others. A staff member skilled in the student's mode of communication shall be in attendance when the student's hands are free.
- 3) the student must be released from restraint as soon as possible. The use of restraint shall not exceed 30 thirty consecutive minutes.
- 4) the person who initiates the restraint shall inform his/her supervisor as soon as possible and must submit a written detailed anecdotal report of the cause/conditions that called for the use of physical restraint. The report shall include the date, time, and location that the physical restraint took place. This report will be placed in the student's temporary records maintained by the State School school with a copy to be sent to the parent/guardian of the student and through the chain of command to the facility administrator.
- d) All direct care staff shall be trained in behavior intervention techniques, including physical restraint, to prevent injury to the students. Documentation of training shall be maintained in the employee personnel files kept at each State School school. Employees that have not completed the training may not employ physical restraint.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 830.160 Profit on Sales from Commissary Stores

- a) All profits Profit from the sales from commissary stores shall be deposited in a locally held fund and shall be used for the special comfort, pleasure and amusement of students and employees.
- b) The total amount spent on the special comfort, pleasure and amusement of employees shall not exceed the amount of profits derived from sales made to employees.
- c) The percentage of the profits made by sales to employees shall be determined by the percentage of employees there are to the total of the student and employee population of each State School school.
- d) These funds and the records pertaining to such receipts shall be

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

subject to audit by DHS internal auditors and by the Auditor General of the State of Illinois.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 830.170 Receipts from Athletic, Musical and Other Events

- a) The receipts from the sale of tickets to athletic, musical, and other events shall be deposited in a locally held fund. The amount of funds deposited into this account must not exceed \$10,000 per facility.
- b) Receipts may be used to provide immediate payment to officials, judges and athletic referees for their services rendered at State School school sponsored contests or events. Documentation of payments received must be signed by the recipient and maintained.
- c) Receipts may be used to provide students who are enrolled in an independent living program with cash so that they may fulfill course objectives by purchasing commodities and other required supplies. To be eligible for receipt of these funds a student must have little or no financial resources. Documentation of payments received must be signed by the recipient and maintained.
- d) These funds and the records pertaining to such receipts shall be subject to audit by DHS internal auditors and by the Auditor General of the State of Illinois.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 830.180 Transportation Fund

- a) The ISD and ISVI shall collect from the local home school district of each resident student the cost of providing transportation between the student's home and the State School school as provided in accordance with Section 14-7.02 of the School Code [105 ILCS 5/14-7.02], the rules of the State Board of Education (23 Ill. Adm. Code 226.960), and the student's Individual Education Program (IEP).
- b) A student's local home school district shall be charged for transporting a student home based on the following formula. The State shall be divided into eight concentric circles which are 50 mile wide bands with the center being Jacksonville, Illinois. Each concentric circle, beginning with the zone containing Jacksonville, Illinois, shall be numbered Zones 1 through 8. The circle number shall also act as the multiplier for determining the individual transportation cost for each student (i.e., Circle 1 shall have a multiplier of 1 compared to Circle 8 which shall have a multiplier of 8). To determine the actual individual transportation cost for each student, the multipliers for all students who will be transported on the same bus will be added together and divided into the charge for

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

the bus that will transport the students home. This will establish the base transportation cost. This base transportation cost will then be multiplied by the zone multiplier for the individual student to determine the actual transportation cost for the individual student which will be billed to the student's local school home district.

- c) These funds shall be deposited in a locally held account and shall be used only for the transportation expenses of resident students.
- d) This fund and its records shall be subject to audit by DHS internal auditors and by the Auditor General of the State of Illinois.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 830.190 Use of Tobacco Products on State School Property

In conjunction with Section 10-20 of the School Code [105 ILCS 5/10-20] and Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3], the Department, under its administrative authority, prohibits the use of all tobacco products on State School school property. For purposes of this Section, tobacco products shall mean cigarette, cigar, or tobacco in any other form, including smokeless tobacco, which is loose, cut, shredded, ground, powdered, compressed or leaf tobacco. The prohibition against the use of tobacco products is to include school personnel, students, or other persons when on State School school property. No exception to this prohibition will be permitted, including all events or activities before or after the regular school day and on days when the State School school is not in session.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Responsibility for Special Education

2) Code Citation: 89 Ill. Adm. Code 760

3) Section Numbers: Proposed Action:

760.10 Repealed

760.20 Repealed

760.40 Repealed

4) Statutory Authority: Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11, and 13].

5) A Complete Description of the Subjects and Issues involved: This Part is being repealed. The language can now be found at Part 750.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed repealer contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

A) Types of small businesses, small municipalities and not for profit

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July, 1998

The full text of the Proposed Repealer begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

TITLE 89: SOCIAL SERVICES
 CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
 SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 760
 RESPONSIBILITY FOR SPECIAL EDUCATION
 (REPEALED)

Section
 760.10 Responsibility of State School
 760.20 Comprehensive Program
 760.40 Rights and Privileges of Students

AUTHORITY: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 18, 1982; codified at 6 Ill. Reg. 13373; amended at 12 Ill. Reg. 11255, effective June 16, 1988; amended at 13 Ill. Reg. 9329, effective June 2, 1989; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; repealed at 22 Ill. Reg. _____, effective _____.

Section 760.10 Responsibility of State School

The State School shall be responsible for providing and maintaining appropriate and effective education programs, at no cost to the student's parents, for all students who are enrolled therein.

Section 760.20 Comprehensive Program

Each State school, independently or in cooperation with local school districts or with other agencies, shall provide a comprehensive program of special education for those exceptional children who are enrolled in the State School. A comprehensive program shall include:

- a) A viable organizational and financial structure.
- b) systematic procedures for identifying and evaluating the need for special education and related services.
- c) A continuum of program options which incorporate appropriate instructional programs and related services.
- d) Qualified personnel, consistent with 89 Ill. Adm. Code 810, who can provide:
 - 1) Administration of the program.
 - 2) Supervisory services.
 - 3) Instructional programs.
 - 4) Related services.
 - 5) Transportation services.
- e) Appropriate and adequate facilities, equipment and materials.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

- f) Functional relationships with those public and private agencies which can supplement or enhance the special education programs of the State School.
- g) Interaction with parents, and with other concerned persons, which facilitates the educational development of exceptional children.
- h) Procedures for internal evaluation of the special education programs and services.
- i) Continuous planning for program growth and improvement based on internal and external evaluation.

Section 760.40 Rights and Privileges of Students

The State School shall be responsible for ensuring that those students enrolled enjoy rights and privileges equal to those of all other children. The State School will not expel a student for behavior or a condition which is, or results from, an exceptional characteristic, as defined in the Illinois State Board of Education's rules Special Education (23 Ill. Adm. Code 226.552). Regard shall not be given to whether the exceptional characteristic is the student's primary exceptional characteristic. In the event that a student is expelled for reasons not associated with the student's exceptional characteristic(s), the State School shall initiate discharge procedures as set out in Case Study Evaluation to Determine Whether a Student is Inappropriately Placed (89 Ill. Adm. Code 755.240 and 795.30).

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Role of Residential Educational Facilities Operated by the Illinois Department of Human Services

- 2) Code Citation: 89 Ill. Adm. Code 750

- 3) Section Numbers: Proposed Action:

750.10	Amendment
750.20	Amendment
750.40	New Section
750.50	New Section
750.60	New Section
750.100	New Section
750.110	New Section
750.120	New Section
750.200	New Section
750.210	New Section
750.220	New Section
750.230	New Section
750.240	New Section
750.250	New Section
750.300	New Section
750.310	New Section
750.320	New Section
750.330	New Section

- 4) Statutory Authority: Implementing and authorized by Sections 3(b), (f) and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 (b), (f), and (k)].

- 5) A Complete Description of the Subjects and Issues involved: This Part is a reorganization and consolidation of existing rules found in other Parts.

- 6) Will this proposed rule replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

- A) Types of small businesses, small municipalities and not for profit corporations affected: None

- B) Reporting, bookkeeping or other procedures required for compliance: None

- C) Types of professional skills necessary form compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendment(s) begins on the next page:

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

reclassified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. _____, effective _____.

SUBPART A: EDUCATIONAL PROGRAM

Section 750.10 Legislative Mandate

The Illinois Department of Human Services (DHS) has the legislative mandate to operate residential educational facilities for children who have hearing, visual, or physical and health impairments. The three State Schools operated by DHS are:

- a) the Illinois School for the Deaf, 125 Webster Street, Jacksonville;
- b) the Illinois School for the Visually Impaired, 628 East State Street, Jacksonville, and
- c) the Illinois Center for Children's--School--and Rehabilitation and Education - Roosevelt Center, 1950 West Roosevelt Road, Chicago.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 750.20 Special Education and Related Services

The three State Schools provide special education and related services for students from kindergarten through the twelfth grade and enroll students from all areas of the state. Since these State Schools do not provide special education programs for all the students in the state with auditory, visual or physical and health impairments, they should be considered as options in a continuum of special education programs available for such students in Illinois.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 750.40 Responsibility of State School

The State School shall be responsible for providing and maintaining appropriate and effective education programs, at no cost to the student's parents, for all students who are enrolled therein.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 750.50 Comprehensive Program

Each State School, independently or in cooperation with local school districts or with other agencies, shall provide a comprehensive program of special education for those children who are enrolled in the State School. A

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 750

ROLE OF RESIDENTIAL EDUCATIONAL FACILITIES OPERATED BY THE ILLINOIS DEPARTMENT OF HUMAN SERVICES

SUBPART A: EDUCATIONAL PROGRAM

- Section 750.10 Legislative Mandate
- 750.20 Special Education and Related Services
- 750.30 Demonstration Projects and Research Programs
- 750.40 Responsibility of State School
- 750.50 Comprehensive Program
- 750.60 Rights and Privileges of Students

SUBPART B: LIMITATIONS OF SERVICES

- Section 750.100 Legal Authority to Place Students
- 750.110 Referral of a Student by DHS
- 750.120 Home and Hospital Programs

SUBPART C: EVALUATION AND COORDINATION OF SPECIAL EDUCATION

- Section 750.200 Extent of Fulfilling Responsibilities
- 750.210 Evaluation Focus
- 750.220 Evaluation
- 750.230 Written Reports
- 750.240 Recognition Status
- 750.250 Coordination

SUBPART D: SURROGATE PARENTS

- Section 750.300 Need for Surrogate Parents
- 750.310 Withdrawal of Surrogate Parent
- 750.320 Expenses of Surrogate Parents
- 750.330 Notification When Surrogate Parent Not Needed

AUTHORITY: Implementing and authorized by Sections 3(b), (f) and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(b), (f), and (k)].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 12, 1982; codified at 6 Ill. Reg. 13792; amended at 12 Ill. Reg. 5450, effective March 8, 1988;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

comprehensive program shall include:

- a) A viable organizational and financial structure.
 - b) Systematic procedures for identifying and evaluating the need for special education and related services.
 - c) A continuum of program options that incorporate appropriate instructional programs and related services.
 - d) Qualified personnel, consistent with the Personnel Code [20 ILCS 415], who can provide:
 - 1) Administration of the program.
 - 2) Supervisory services.
 - 3) Instructional programs.
 - 4) Related services.
 - 5) Transportation services.
 - e) Appropriate and adequate facilities, equipment and materials.
 - f) Functional relationships with those public and private agencies that can supplement or enhance the special education programs of the State School.
 - g) Interaction with parents and with other concerned persons that facilitates the educational development of exceptional children.
 - h) Procedures for internal evaluation of the special education programs and services.
 - i) Continuous planning for program growth and improvement based on internal and external evaluation.
- (Source: Added at 22 Ill. Reg. _____, effective _____)

Section 750.60 Rights and Privileges of Students

The State School shall be responsible for ensuring that those students enrolled enjoy rights and privileges equal to those of all other children. The State School will not expel a student for behavior or a condition that is, or results from, a disability, as defined in the Illinois State Board of Education's rules Special Education (23 Ill. Adm. Code 226.552). Regard shall not be given to whether the disability is the student's primary disability. In the event that a student is expelled for reasons not associated with the student's disability(ies), the State School shall initiate discharge procedures as set out in Case Study Evaluation to Determine Whether a Student is Inappropriately Placed (89 Ill. Adm. Code 827.60).

(Source: Added at 22 Ill. Reg. _____, effective _____)

SUBPART B: LIMITATIONS OF SERVICES

Section 750.100 Legal Authority to Place Students

The State Schools do not have legal authority to place students in other

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

State-operated or private facilities. Placement of students in need of the services of such facilities is handled by the local school district in accordance with 23 Ill. Adm. Code 226.410 through 226.460.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 750.110 Referral of a Student by DHS

State-Operated or Private Program not Administered by the Department of Human Services (DHS). A student whose disabilities are so profound or complex that no special education program offered by the State Schools can adequately or appropriately meet his/her needs is referred to the local school district with diagnostic data and recommendations for referral to either another State-operated facility, a private facility or other educational program provided by the local school district.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 750.120 Home and Hospital Programs

The State Schools do not provide home and hospital programs as defined by the State Board of Education at 23 Ill. Adm. Code 226.350 - 226.385. A student requiring home and hospital programs shall be returned to the sending local school district for appropriate educational programming.

(Source: Added at 22 Ill. Reg. _____, effective _____)

SUBPART C: EVALUATION AND COORDINATION OF SPECIAL EDUCATION

Section 750.200 Extent of Fulfilling Responsibilities

a) The extent to which the State School is fulfilling its responsibilities to students shall be determined by DHS and the State Board of Education.

b) To facilitate such determination, officials of DHS and the State Board of Education shall be authorized to examine all necessary documentation in a manner consistent with DHS policies on confidentiality, including student records.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 750.210 Evaluation Focus

Evaluation by DHS and the State Board of Education shall focus on the State

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

School's provision of special education services, on each special education cooperative organization of which it is a participant, and on community resources utilized by the State School.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 750.220 Evaluation

Evaluation of special education programs and services shall be based on all of the following:

- a) A Special Education Services Comprehensive Plan. This plan shall describe the State School's provision of special education services, its plan for program involvement, and those factors unique to the individual State School that must be considered in the evaluation. This plan shall be filed with DHS and the State Board of Education and revised at least triannually.
- b) Continuous Internal Evaluation. The State School shall develop and implement procedures that assess the extent to which students are being adequately served and the effectiveness of each special education program and service.
- c) Recognition Criteria for Special Education. These criteria shall be assessed through an in-depth study conducted on site by a team representing special education of the State Board of Education.
- d) Records must be maintained to demonstrate compliance with assurances agreed to in the applications for State and federal funds. These records will be monitored by DHS staff and the State Board of Education staff.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 750.230 Written Reports

Written reports of the results of the evaluation conducted by the State Board of Education and any subsequent recommendations or actions shall be provided to the Associate Director of DHS and the superintendent of the appropriate State School. Reports of the evaluation shall be considered in the public domain.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 750.240 Recognition Status

The recognition status of the State School shall be affected by its provision of special education services.

(Source: Added at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

_____)

Section 750.250 Coordination

DHS will continue to coordinate its program and activities for hearing, visually and physically/health impaired students with those programs operated or supervised by the State Board of Education.

- a) DHS will cooperate with the State Board of Education and will respond to its requests for technical assistance in identifying the need for additional programs for hearing, visually and physically/health impaired students with secondary disabilities.
- b) In order to aid the State Board of Education in fulfilling its obligation to coordinate all educational programs for exceptional children, DHS agrees to provide to the State Board of Education by November 1 of each year the names of students with secondary disabilities who were denied admission to the State Schools, together with the reasons for the denial, including a statement of the types of related aids and services the student requires that the State Schools are unable to provide.
- c) DHS will cooperate with the State Board of Education in making efforts to identify the statewide need for additional programs or modifications to existing programs for hearing, visually and physical/health impaired students.

(Source: Added at 22 Ill. Reg. _____, effective _____)

SUBPART D: SURROGATE PARENTSSection 750.300 Need for Surrogate Parents

The State Schools shall make all reasonable attempts to contact the parents of the student who has been referred. If the parents' whereabouts cannot be discovered and the State School has reason to believe that a surrogate parent is needed, the request for the appointment of such a person shall be sent to the State Board of Education, Legal Department, Springfield.

- a) The State School shall provide documentation of its efforts to contact the parents.
- b) The State School shall provide information on the racial, linguistic and cultural background of the student whose parents' whereabouts cannot be discovered.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 750.310 Withdrawal of Surrogate Parent

The State School shall inform the State Board of Education if the student's

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

parent becomes known or available. In such cases the services of the surrogate parent shall be withdrawn.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 750.320 Expenses of Surrogate Parents

The State Board of Education will pay for the services of a surrogate parent as per 23 Ill. Adm. Code 233.750.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 750.330 Notification When Surrogate Parent Not Needed

If the State Board of Education determines that a surrogate parent is not needed, the State School shall be notified, in writing, regarding this decision. As appropriate, this notification shall indicate the reasons for the decision or direct the State School regarding further action in the matter.

(Source: Added at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Rules of Conduct, Discipline, Suspension and Discharge Procedures

2) Code Citation: 89 Ill. Adm. Code: 827

3) Section Numbers:
 827.10 Amendments
 827.20 Amendments
 827.30 Amendments
 827.35 New Section
 827.40 Amendments
 827.50 New Section
 827.60 New Section
 827.70 New Section
 827.80 New Section

4) Statutory Authority: Implementing Sections 10 and 11 and authorized by Section 3(f) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/10, 11 and 3(f)].

5) A Complete Description of the Subjects and Issues involved: Types of infractions have been removed in Section 827.30. Time frames for disciplinary action have been included in Section 827.35. Sections 827.50 through 827.80 are new language for this Part which was previously found in Part 755.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
 Bureau of Administrative Rules and Procedures
 Department of Human Services
 100 South Grand Avenue East
 3rd Floor, Harris Bldg.
 Springfield, IL 62762

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Telephone number: (217) 785-9772

TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendment(s) begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 827

RULES OF CONDUCT

Section

827.10 General Applicability

827.20 Infractions by Students

827.30 Disciplinary Actions

827.35 Effective Date of Discipline

827.40 Appeals of Disciplinary Actions

827.50 Discharge

827.60 Case Study Evaluation to Determine Whether a Student is

Inappropriately Placed

827.70 Interim Services

827.80

Suspensions, Changes in Placements, and Discharges of Students who are Dangerous to Themselves or Others

AUTHORITY: Implementing Sections 10 and 11 and authorized by Section 3(f) of the Disabled Persons Rehabilitation Act (20 ILCS 2405/10, 11 and 3(f)).

SOURCE: Adopted at 11 Ill. Reg. 6500, effective March 27, 1987; amended at 12 Ill. Reg. 14700, effective September 2, 1988; amended at 17 Ill. Reg. 6260, effective April 5, 1993; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. _____, effective _____.

Section 827.10 General Applicability

- a) State School staff shall maintain discipline at the State School to ensure the proper conduct and safety of the students. In all matters relating to the discipline in and conduct of the State School and the State School children, these staff stand in the relation of parents to the pupils. This relationship shall extend to all activities on and off campus connected with the State School program and may be exercised at any time for the safety and supervision of the pupils in the absence of their parents. Nothing in this Section affects the power of the Department to establish rules with respect to discipline. The term "parent" as used in this part means the natural or adoptive parent or legal guardian of the person of a student.
- b) The Department of Human Services (DHS) operates three schools for exceptional children: the Illinois School for the Deaf (ISD), the Illinois School for the Visually Impaired (ISVI), and the Illinois Children's School and Rehabilitation Center (ISRC). The disciplinary action taken by staff at these State Schools shall be progressive in nature. For additional information regarding

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

discipline and the code of conduct, see the Rights, Responsibilities and Procedures Handbook, provided to each parent and student upon admission to a State School. The disciplinary action it will be in response to: the seriousness of the infraction which has occurred; the student's age and disability exceptional characteristics (as defined in 23 Ill. Adm. Code 226-5) of the involved student; and the number of times he or she has been involved in similar behavior. Sufficient flexibility is allowed to enable the responsible staff to exercise sound professional judgment in determining the disciplinary action which will be taken. Each case will be judged individually by the superintendent or designee in consultation with staff experienced staff who take all relevant factors into consideration when reaching a decision.

e) Although there are elements of punishment in most of the listed disciplinary actions, staff's primary goals in determining and administering discipline are to modify the student's future behavior so he or she will participate more appropriately in the school's programs and to protect the rights and safety of the other students. Treatment which is basically punitive rather than corrective shall be used only as a last resort.

c) d) When State school staff have been made aware by the student's parents of their desire to be involved in their child's discipline, or when the superintendent or the superintendent's designee, based on their judgment, has determined the incident so serious as to require that parental involvement is needed, parents will be notified and informed of fully involved in determining appropriate the discipline disciplinary action taken. In cases of suspension and expulsion, the parent will be notified of the action taken by the State School and of the right to appeal the action in person or by telephone and by written notice. Parents of students over 18 will also receive notification.

d) e) In addition to the disciplinary action contained in Section 827.30, financial restitution will be required when damage results from a student's behavior that requires disciplinary action, and when that damage is to State state property and is greater than \$100.00; the student shall have an impartial appraisal of the losses or damages made. When the amount of damage is determined, through an impartial appraisal, the responsible student will be required to pay immediately pay 5% of the cost of the damage upon notification by the Superintendent Superintendent or designee of the amount. The Client Parental Analysis form (H488-0265) will be used to determine the student's and/or family's resources. The amount of payment due for the remainder of restitution will be determined by the Determination table for Client Participation (09-III-Adm-Code-562-Table-A). The Student/Parent is responsible for establishing and following through with a payment plan for repayment. If the student and/or parent refuses to cooperate or to follow through on the restitution payment, consequences may include the withdrawal of special privileges (i.e.,

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

extracurricular activities, graduation).

- 1) If the student is declared a dependent on the latest federal income tax return of the parent, the student and his/her parents will be responsible for paying the damages.
- 2) If the student is not a dependent, the student will be responsible for paying the damages.
- 3) If the student and/or parent refuses to cooperate or to follow through on the restitution payment, the superintendent shall contact the Accounts Receivable Unit in DHS to begin collection proceedings.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 827.20 Infractions by Students

Infractions of State School policies, including violations of the rules of conduct, may result in disciplinary action. The specific rules of conduct are provided in the State School Handbook, Rights, Responsibilities and Procedures that is provided to parents and students annually at the time of enrollment at the beginning of the State School year.

The following is the list of activities which the Department has identified as infractions in a generally ascending order of seriousness:

- a) Disturbing a class, a dormitory or other school activity, disrupting school activities by such unacceptable behavior as making noise, inappropriate physical activity or comments.
- b) Tardiness, being late to a scheduled activity one is required to attend.
- c) Littering, discarding trash or other materials on the floor, grounds or other inappropriate places.
- d) Loitering, remaining in an area of the school, for no apparent reason after being asked by staff to leave.
- e) Inappropriate communication, using language or distributing material which is inappropriate for use with the group or individual to which it is addressed, such as name-calling, profanity, obscenity or derogatory statements.
- f) Cheating/lying, being dishonest, untruthful or intentionally deceptive.
- g) Insolence, being disrespectful in speech or action.
- h) Forged notes/excuses, using a note or an excuse which is false or has been modified to mislead a staff person or another student.
- i) Smoking, smoking when or where smoking is prohibited or smoking by students under 18 unless with parental consent.
- j) Improper bus conduct, improper conduct while riding the bus such as smoking, annoying others, refusing to obey the bus driver or other staff, or endangering health or safety.
- k) Cutting class, being absent from a class without authorization.
- l) Off-campus without permission, leaving campus without the approval of

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

the--appropriate-staff-or--returning-to-campus-later-than-the-scheduled time;
 m) disrespect-and-insubordination--openly-defying-school-staff--rules-or authority;
 n) intimidation/threats-to-others--threatening-someone-with--the-intent to--cause--that-person-anxiety-or-to-do-or-not-to-do-something-against his/her-will;
 o) gambling--betting-or-taking-part-in-a-game-of-chance--or--skill--for money-or-material-gain;
 p) unlawful-assembly--forming-or--participating-in-a-group-of-three-or more-persons-to-cause-violence--to-do-unlawful-acts--or--to--disturb others;
 q) fighting--engaging--in-a-physical-struggle-or-conflict-between-two-or more-individuals-with-the-intent-of-causing-pain-or-injury;
 r) vandalism--destroying-or-damaging-public-or--private-property--in-a willful-manner--For-the-purpose-of-this-rule--the-term-vandalism-is limited-to-damage-under-§150;
 s) stealing--taking--someone-else's--property--without--that--person's permission--For--the--purposes--of--this--rule--the-term-stealing-is limited-to-up-to-§150;
 t) trespassing--entering-the-land--property-or--the-dormitory--room--of another-person-after-receiving-notice-not-to-enter;
 u) false--fire--alarm--activating-a--fire--alarm--intentionally--with knowledge-there-is-not-a-fire-or-other-reason-to-use-the-fire-alarm system;
 v) criminal-damage-to-property--destroying-or-damaging-public-or-private property-valued-over-§150-in-a-willful-manner;
 w) possession/use/or--transfer-of--drugs--alcohol--weapons--or-other contraband--te-g-v-guns--knives--tire-irons--and-etc--having--using or--providing--to--others--illegal-drugs--alcohol--beverages--devices designed-to-produce-bodily-harm-or-death--or--other--contraband--te-g-v-guns--knives--tire-irons--and-etc--;
 x) extortion--obtaining--money-or-other-valuable--from-another-person-by force-or-coercion;
 y) bomb-threat--telling-someone-falsely--that-a-bomb-exists--or--stating the-intent-to-obtain-or-use-a-bomb;
 z) assault/battery--inflicting-physical-pain--or--injury--or--beating another-person-in-a-violent-manner;
 aa) molesting--indecent--or--unwanted-sexual-activity-with-another-person te-g-v-intimidation--assault--;
 bb) possession/sale--of--stolen-property--having--or--selling--property belonging--to--another-person--or--the-state--without-the-consent-of-that person--or--the-state;
 cc) break-in-or-forced-entry--breaking-a-lock--window--door--or--using force-to-get-into-a-building--room--or-vehicle;
 dd) robbery--taking-the-property-of-another-by-force-or-threat-of-force;
 ee) arson--setting-fires-intentionally--when-there-is-a-probability-they will-cause-property-damage--bodily-injury--or-anxiety;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

ff) larceny--obtaining-another-person's--property--illegally--For--the purpose-of--this--Part--larceny-applies-to-property-valued-at-§150-or more;
 gg) other--action-or-conduct-which-is-clearly-inappropriate
 (Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 827.30 Disciplinary Actions

a) The following disciplinary actions can be issued by school staff, as set forth in this Section and in accordance with Section 827.10. No teacher or staff member may use corporal punishment of any form, and may not in any way physically, verbally, emotionally or sexually abuse students. Additionally, there shall be a review of the recommended discipline to determine if a behavior management plan is either in effect or needed prior to any disciplinary action being taken. A behavior management plan is developed only for serious infractions. Behavior intervention techniques are found at 89 Ill. Adm. Code 830.150. A behavior management plan shall not be developed for items listed in subsections (a)(1)-(5) below.

- 1) Counseling - Any staff person working directly with students may informally counsel a student on a given time-limited, relatively uncomplicated matter. However, ongoing or complex counseling requiring specialized professional skills must be reported to the superintendent via the administrative chain of command.
- 2) Verbal reprimand - A verbal reprimand can be issued by any staff person for behavior which is not consistent with State School policy or acceptable conduct.
- 3) Written A-written reprimand - A written reprimand can be issued by educational and dormitory staff if they observe the student in activities which warrant such action. Administrative staff can also issue written reprimands upon the recommendation of the appropriate staff or on their own.
- 4) Special assignment of duties - Special assignment of duties can only be issued by staff having direct responsibility for the student.
- A) Special assignments requiring more than 3 hours but fewer than 5 hours of the student's time or being issued by a staff person who has issued a prior special assignment to the student, must receive prior approval from the staff person's supervisor.
- B) Special assignments--requiring--more--than--5--hours--of--the student's--time--must--receive--prior--approval--from--the--school's superintendent--or--the--superintendent's--designee
- 5) Referral to principal's office - Teachers may send a student who is disruptive to the principal's office during the class period. The principal will take action based upon the teacher's referral.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- and will decide upon further discipline if appropriate.
- 6) Retention after retention-After State School - A teacher may who retain retains a student for up to more than 1 hour a day for three days per State School year without prior approval of the teacher's supervisor. Retaining a student beyond that number of hours requires the prior approval of the responsible teacher's supervisor. for-three-days-per-year-must-receive-prior-approval-from-the-teacher's-supervisor
- 6) Supervised-Study-----A-teacher-who-assigns-supervised-study-to-a student-for-more-than-3-hours-per-week-for-more-than-2-weeks-per-year-as-a-disciplinary-action-must-receive-prior-approval-by-the teacher's-supervisor:
- 7) Detentions - Teachers may refer students for detentions to their respective principal. The principal will review the matter and determine if and when a detention is assigned to a student.
- 8) Withdrawal of Privileges - Privileges, such as extra-curricular or social activities, may be withdrawn with--be--issued by appropriate State School school staff and/or school administrators based upon the seriousness of the student's infractions.
- 9) Contract - A contract is a written agreement that the student, educator, and administrator compose together with the goal of modifying the student's behavior within a designated time period.
- b) The-following-disciplinary-actions-must-be-approved-by-a-supervising teacher-or-supervisor-of-child-care-as-set-forth-in-this-Section-and in-a-record-keeping-Section-027-10:
- 10) Schedule change Change - Staff working directly with a student may recommend schedule changes that they believe would help resolve a disciplinary problem and would benefit the involved student(s). Such changes may not be made, however, without the prior written approval of the appropriate principal and the supervisor of residential care. Changes-in-the-student's individualized---Education---Program---(IEP)---resulting---from disciplinary-needs---require---prior-notification-to-the-student's parents-
- 11) Restriction to campus Campus - A student may be restricted to campus with the prior approval of: Restricting-a-student-to-campus-does-not-apply-to-scheduled-school-vacation-time
- A) the principal or the supervisor of residential care, depending upon where and when the infraction occurred, if the recommended period of the restriction does not exceed one week;
- B) the superintendent if the recommended period of restriction is over one week; however, this authority may not be delegated if the recommended restriction is two weeks or more.
- A) If-the-restriction-to-campus-is-less-than-1-week-the supervising-teacher-or-supervisor-of-child-care-must-approve

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- the-restriction-
- B) If-the-restriction-to-campus-exceeds-1-week-but-is-less-than 2-weeks-the-superintendent's-or-the-superintendent's designee-must-approve-the-restriction
- e) Restriction-to-Classroom-During-Bay-and-to-Dormitory-Room-at-Other times---
- 1) If-the-restriction-is-for-2-days-or-less-the-dorm-supervisor-must approve-the-restriction-
- 2) If-the-restriction-is-more-than-2-days-the-superintendent-or designee-must-approve-the-restriction-after-reviewing-all relevant-facts-
- d) The-following-disciplinary-actions-must-receive-prior-approval-from the-superintendent-or-designee-as-set-forth-in-this-Section-and-in accordance-with-Section-027-10:
- 12) Restriction to classroom/dormitory - A student may be restricted to the classroom or dormitory for a specific period of time, but: A) if the restriction is for two days or less, the principal or dorm supervisor must approve the restriction.
- B) If the restriction is more than two days, the superintendent must approve the restriction following a meeting with involved staff to review all relevant facts.
- 13) Structured Study/Selective Isolation - A guided instructional program, conducted in a setting away from other students, designed to help students concentrate on their academic program and at the same time receive counseling and an education time block focusing on the particular infraction that occurred. This disciplinary alternative to suspension must be approved by the superintendent prior to implementation.
- 14) Suspension from the dormitory but not Dormitory-But-Not from the State School - Residential care staff or their supervisors may recommend to the superintendent the suspension of a student from the dormitory but not from the State School for a specific number of days, but the suspension shall not become effective until the superintendent has: Such-suspension-shall-not-become-effective-until-the-superintendent-has:
- A) held an in-house multidisciplinary staffing to determine whether such action is appropriate in relation to the disciplinary infraction;
- B) held a discussion discussions with the student's parents or legal-guardian and has determined that an appropriate alternative living arrangement will be made by the parents for the student during the period of the suspension; and
- C) notified the DHS-ORS Director of Educational Services of the pending action and the reasons for it; and
- D) notified the local school district local-Education-Agency of-parental-student-residence-(BIA) of the pending action.
- If IEP contains residential components, an IEP meeting must be held prior to implementation of disciplinary action.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

15) Expulsion from the dormitory but not from the State School - Residential care staff or their supervisors may recommend to the superintendent the expulsion of a student from the dormitory, but not from the State School, but the expulsion shall not become effective until the superintendent has reviewed all relevant facts and has:

- A) held an in-house multi-disciplinary staffing to determine whether such action is appropriate in relation to the disciplinary infraction;
- B) held discussions with the parents/guardians and determined that they will provide an appropriate, permanent, alternative living arrangement for the student;
- C) discussed the legal implications with the DHS Legal Unit;
- D) received prior approval for the action from the DHS Director of Educational Services;
- E) notified the local school district of parental and student residence of the pending action; and
- F) revised the student's IEP.

2) Expulsion-From-the-Bornitory-But-Not-From-the-School-----Such expulsion shall not become effective until the superintendent has reviewed all relevant facts and has:

- A) held a multidisciplinary staffing to determine whether such action is appropriate in relation to the disciplinary infraction;

B) held discussions with the parents and determined that they will provide an appropriate permanent alternative living arrangement for the student;

C) received prior approval for the action from the Associate Deputy Director of Educational Services after the Associate Deputy Director has discussed the action with the Legal Division;

D) notified the BSA of the pending action; and

E) revised the student's IEP.

3) Suspension-From-School-----Such suspension shall not become effective until the superintendent has:

- A) reviewed all relevant facts and has notified the parents and the BSA in writing of the pending action and the appeal process pursuant to Section 027.40; Notification must be made within 10 school days from the date of the superintendent's review. If it is an emergency situation notification may then be made by telephone with written confirmation following.

B) ensured the suspension is being handled in accordance with 09-III-Adm-Code-755-260; and

C) consulted with the Associate Deputy Director of Educational Services who will consult with the General Counsel in BWS if the total of all suspensions in the given school year will be more than 10 days.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

e) Change-of-placement-from-the-school-can-only-be-done-with-the-prior approval-of-BHS. Change-of-placement-will-only-be-used-for-eases-of serious infractions which pose a significant threat to the safety or rights of the student or others.

1) Prior-to-the-change-of-placement-the-student-can-be-temporarily suspended-pending-an-investigation-of-the-situation-by-the-school superintendent. The total of all suspensions cannot be more than 10 school days in the aggregate for the school year. The suspension will be administered pursuant to 09-III-Adm-Code 755-260.

2) By-the-onset-of-the-suspension-notification-of-the-suspension investigation multidisciplinary staffing and appeal procedures must be given to the student's parents and the BSA.

3) The superintendent's investigation must be completed during the first 5 school days of the suspension and will consist of:

- A) reviewing all available evidence and extenuating circumstances;
- B) interviewing school staff and students as appropriate;
- C) holding a multidisciplinary staffing which includes the student's parents and the BSA if possible;
- D) obtaining as much input as possible from the involved student's parents and the BSA;
- E) reviewing all information in 09-III-Adm-Code-755-260 to determine if all past and proposed actions are consistent with requirements; and
- F) discussing the issue with the Associate Deputy Director of Educational Services who must discuss it with the General Counsel of BHS.

4) Based on the findings of the investigation the Superintendent will decide whether to recommend expulsion to the Department. The Department shall base the decision to expel on the documentation provided and the extenuating circumstances within this subsection. The Department's decision must be reached during the second 5 school days of the student's suspension.

16) Suspension from State School - The suspension shall not become effective until the superintendent has reviewed all relevant facts and has notified the parents/guardians by telephone. The phone call is followed by written notification sent to the parents/guardians and a copy of such notification is sent to the local school district. Notification must be made within 10 school days from the date of completion of the review.

17) Expulsion from State School - Expulsion from the State School can only be done with the prior approval of the Associate Director of DHS-ORS. Change of placement will only be used for cases of serious infractions that pose a significant threat to the safety or rights of the student or others. The student can be immediately suspended for up to 10 days pending an investigation of the situation by the superintendent.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- b) The Associate Director must expel a student who brings a gun or dangerous weapon on campus and such expulsion shall take effect immediately as is required by the Gun Free Schools Act (20 USC 8921) and Section 10-22.6 of the School Code.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 827.35 Effective Date of Discipline

- a) All discipline except as discussed in subsection (b) of this Section will take place immediately or in the time frame established by the staff person determining the discipline.
- b) In cases of suspensions of 10 days or more, changes of placement, or expulsion, the action taken will not take place until an appeal, if taken, has been exhausted unless the situation poses a danger to the student or others or the expulsion is required by the Gun Free Schools Act (20 USC 8921) and Section 10-22.6 of the School Code.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 827.40 Appeals of Disciplinary Actions

- a) Actions taken by DHS in conformance with this Part are appealable through procedures as set forth in this Section. The parents can waive steps one and two and begin the appeal at step three. In such cases, the superintendent will involve the person who imposed the disciplinary action as well as that person's supervisor. Limiting with the parent's consent the Department can combine steps 4 and 5.
- b) In cases of suspensions of more than 10 days and changes of placement including expulsion, the proposed discipline action will not take place until the appeal has been exhausted, unless the student is a danger to self or others. Suspensions of more than 10 days or changes of placement may be appealed directly to the Director of Educational Services or through Impartial Due Process Hearing (89 Ill. Adm. Code 828).

- c) If the student receiving the discipline and/or his/her parents are dissatisfied with disciplinary actions taken, they can appeal as follows:

1) The student and/or his/her parents should review 23 Ill. Adm. Code 226-605 to determine whether the issue involved qualifies as a reason for requesting an impartial due process hearing. If it does, 89 Ill. Adm. Code 808 should be followed. If the issue to be appealed involves the provision of vocational rehabilitation services, "Appeals and Hearings" (89 Ill. Adm. Code 548) should be followed. Both 23 Ill. Adm. Code 226-605 and 89 Ill. Adm. Code 808 are included in the Resource Supplement Handbook on

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- Rights and Responsibilities- Procedures-
- 1) Step 1. When the action is appealable under this Section, the student and/or parents should, within 3 school days after learning or being informed by the school of the disciplinary action, ask the staff person who imposed the disciplinary action for a meeting to explain the student's and/or his/her parents' position. The student and/or parents may request that the supervisor of the staff person imposing the discipline, as well as the superintendent, be present at the meeting.

- 3) Step 2. If the matter is not resolved to the student's and/or parents' satisfaction at the meeting, the student and/or parents should, within 3 school days after meeting with the person who imposed the disciplinary action, request a meeting with the supervisor of that person.

- 4) Step 3. If the matter is not yet resolved, the student and/or his/her parents should, within 3 school days after meeting with the supervisor, request a meeting with the superintendent. The superintendent may approve a designee to conduct the meeting.

- 2) Step 24. If the matter is still not resolved, the student and/or parents should, within 3 school days after meeting with the superintendent, write a letter to the Associate Deputy Director of Educational Services requesting a meeting with the Associate Deputy Director or designee.

- 6) Step 5. If the matter is still not resolved to the student's and/or parents' satisfaction, the student and/or his/her parents should, within 3 school days after meeting with the Associate Deputy Director of Educational Services, write a letter to the Secretary of DHS requesting a meeting with the Secretary or the Secretary's designee.

- d) For Steps 1, 2 and 3 the meeting must take place within 4 school days after of the date the request is received. For Steps 2, 4 and 5 the meeting must take place within 5 working days after of the date the written request is received.

- e) A student has the right to be accompanied or assisted by his/her parents, or other representative adult of the student's choosing, at any or all of the meetings. Any expenses which result from involving the adults must be borne by the student or some source other than the State School school.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 827.50 Discharge

A student may be discharged from a State School when:

- a) The student graduates from high school.
- b) The student reaches age 21. The student who becomes 21 during the school year shall be allowed to complete that year.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- c) The student's parents move out of State, unless a parent is a member of the armed forces.
- d) The student's parents request the discharge.
- e) It has been determined through a multidisciplinary case study evaluation conducted in accordance with Section 827.60 that the student is inappropriately placed.
- f) The student is absent for 60 consecutive school days and the parents either cannot be reached or will not provide information indicating the reasons for the absence or the anticipated date the student will return. In such cases, the State School shall contact the local school district about whether the student will return (e.g., due to long term hospitalization, death, change of residence) and request assistance in locating and/or working with the parents.
- g) The student is expelled for behavior or a condition that is not, or does not result from, his or her disability(ies), as defined in the State Board of Education's rules Special Education (23 Ill. Adm. Code 226.552).

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 827.60 Case Study Evaluation to Determine Whether a Student is Inappropriately Placed

- a) When the State School's administrators, faculty members, other staff, or consultants have reason to believe that a student at the State School is inappropriately placed, a case study evaluation will be conducted. The evaluation will not be limited to the student's primary disability, but will include any disability that may be relevant to the determination that the student is or is not appropriately placed at the State School. Case Study Evaluation to Determine Need for Modification of Educational Service (89 Ill. Adm. Code 795.30) sets forth additional requirements.
- b) The parent(s) and the local school district will be informed of the reasons for the case study evaluation and the kind of data the evaluators intend to develop. The evaluation shall be subject to parental consent.
- c) In interpreting evaluation data and in making placement decisions, the State School will:
- 1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior;
 - 2) ensure that information obtained from all such sources is documented and carefully considered; and
 - 3) ensure that the placement decision is made by a group of persons, knowledgeable about the student, e.g., parents, educators, psychologist, social workers, student care specialists, supervisors, administrators, medical practitioners and others

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- d) A decision to terminate the placement of a student at the State School must be made in accordance with Section 827.50 of this Part. A conference will be held that includes, at a minimum, the following participants:
- 1) A representative of each department of the State School, other than the student's teacher, who is qualified to provide, or supervise the provision of, special education. Such divisions include educational, residential, medical, social services, evaluation, and administration;
 - 2) The student's teacher;
 - 3) One or both of the student's parents;
 - 4) The student, as appropriate, if the social worker or a conference participant requests his/her attendance, or the student is 17 years of age or older;
 - 5) A representative of the local school district of parental/student residence; and
 - 6) Other individuals, at the discretion of the parent, the local school district or the State School. Other individuals are allowed who have knowledge or special expertise regarding the student, including related services personnel as appropriate.
- e) The recommendation of the conference will be the consensus of the participants, in accordance with Recommendations (89 Ill. Adm. Code 795.60). The conference participants will prepare a written statement detailing the reasons for the termination, including the type of services the participants believe the student needs and the reasons the State School cannot provide those services.
- f) The termination of a student's placement is an appealable issue under Impartial Due Process Hearing (89 Ill. Adm. Code 828). The State School will inform the parents of their right to request an impartial hearing should the conference recommend termination of the student's placement.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 827.70 Interim Services

- a) If the decision of the conference is to terminate the student's placement at the State School, the conference will recommend, at the request of the local school district, an appropriate placement for the student and/or interim services for the student at the State School. Such services shall be as appropriate to the student's needs as possible and continue to be provided for no more than 20 calendar days after the local school district has been notified. This allows time for the local school district to locate the appropriate placement for the student. Such obligation shall terminate if the student refuses to remain on campus or if the parent(s) refuses to allow the student

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

to remain on campus. Further, such obligation is limited solely to such services as may be provided on the State School's premises.

- b) In those circumstances in which the conference concludes that the student represents so substantial a danger to self, others or State School property that the only appropriate placement is beyond the State School's authority to provide, in accordance with Sections 10, 11 and 13 of the Disabled Persons Rehabilitation Act (e.g., homebound or hospital instruction, or that the student is unable to adjust to group living) the conference may recommend that the State School is not an appropriate placement for interim services. Any such changes in placements shall be made only in accordance with Section 827.80.
- c) The State School will implement the recommendations of the conference and will provide interim services to the student for up to 20 calendar days (depending on the recommendation of the conference) unless the local school district locates an appropriate placement within less time. An interim IEP must be developed and sent to the local school district.
- d) The modifications to the student's program will be initiated as soon as possible after the decision to terminate the placement of the student at the State School and the agreement to the amount and type of interim services to be offered.
- e) The modifications to the student's program during the 20-calendar-day interim period shall be made according to the procedures set forth in 89 Ill. Adm. Code 795.90-795.120 or Section 827.80.
- f) Subsections (a) and (c) in no way modify the obligation of the local school district to provide a free appropriate public education to qualified students with disabilities within its jurisdiction, nor do these subsections modify the obligation of the local school district to locate an appropriate placement as soon as possible after the decision to terminate the student's placement at the State School has been made.
- g) Under subsections (a) and (c) the State School shall not be required to maintain the student on campus or to provide services during scheduled breaks, shutdowns, or summer vacations.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 827.80 Suspensions, Changes in Placements, and Discharges of Students who are Dangerous to Themselves or Others

- a) A suspension barring the student from both the educational and the residential components of the State School for not more than 10 consecutive State School days in one State School year is not a significant change in placement or a discharge.
- b) A suspension for greater than 10 State School days in one State School year for any reason is a significant change in placement under the Individuals with Disabilities Education Act (20 USC 1400 et seq.) and

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- is appealable pursuant to Impartial Due Process Hearing (89 Ill. Adm. Code 828).
- c) Change a student's placement, except pursuant to subsections (g) and (h).
- d) The State School may suspend a student for no more than 10 days in one State School year when suspension is warranted due to the physical danger to the student, others, or State School property caused by the student's presence, even when the behavior results from the student's disability. Suspensions made pursuant to this Section shall be made in accordance with the procedures established in Section 827.30.
- e) If the State School's administrators, faculty members, other staff, or consultants have reason to believe that the suspended student is inappropriately placed at the State School, the State School will initiate discharge procedures, as set out in Section 827.50.
- f) If warranted because a student is an immediate physical danger to self or others, the superintendent or designee may change the educational status (e.g., a restriction of extracurricular activities) within the State School of the student during the pendency of due process proceedings.
- g) The superintendent of the State School may also suspend, for no more than 10 days, the student who is an immediate danger to self or others during the pendency of due process proceedings.
- h) The State School may not unilaterally cease to provide services to a student during the pendency of due process proceedings. If the student, however, represents so substantial a danger to self or others that the only appropriate placement is beyond the State School's capability to provide (e.g., hospital or home bound instruction), the State School can make a request for an expedited hearing.

(Source: Added at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Sex Equity

2) Code Citation: 89 Ill. Adm. Code 829

<u>Section Numbers:</u>	<u>Proposed Action:</u>
829.10	Amendment
829.20	Amendment
829.30	Amendment
829.40	Amendment
829.50	Amendment
829.60	Amendment
829.70	Amendment
829.80	Amendment
829.90	Amendment
829.100	New Section

4) Statutory Authority: Implementing Sections 10 and 11 and authorized by Section 3(f) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/10, 11 and 3].

5) A Complete Description of the Subjects and Issues Involved: Minor technical changes have been made to this Part. Section 829.100 was added to clarify the supervision of students.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
Telephone number: (217) 785-9772

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
 SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 829
 SEX EQUITY

Section	Definitions
829.10	Applicability
829.20	Administration
829.30	Treatment of Students
829.40	Educational Programs and Activities
829.50	Counseling Services
829.60	Extracurricular Programs and Activities
829.70	Compliance and Enforcement
829.80	Effects of Other Requirements
829.90	Supervision of Students by School Staff
829.100	

AUTHORITY: Implementing Sections 10 and 11 and authorized by Section 3(f) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/10, 11 and 3(f)].

SOURCE: Adopted at 13 Ill. Reg. 5755, effective April 11, 1989; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. _____, effective _____.

Section 829.10 Definitions

In addition to the terms defined in Part 751, the following terms are defined for the purposes of this Part.

"Comparable" means similar in quality and quantity, taking into consideration all relevant facts and circumstances.

"Contact Sports" means those sports whose purpose or major activity involves bodily contact: e.g., basketball, boxing, football, ice hockey, rugby, and wrestling.

"Counseling" means all guidance activities, personal counseling, guidance-related evaluation and testing, provision of vocational and career information and advice, scheduling assistance, and any other guidance services provided to students by any person acting under the authorization of a State School state-school.

"Course" means any State School state-school sponsored class regardless of the location of class meetings, nature of instruction, or type or age of student.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

"Discrimination" means the violation of individuals' state or federal equal rights guarantees (U.S. Constitution, Amendment 14; 20 USC 9-Sec. 1681 et seq.; Illinois Constitution, Article I, Sections 2, 18; and Sections 10-22.5 and 27-1 of the School Code [105 ILCS 5/10-22.5 and 27-1], whether intended or unintended.

"Disparate Interest Levels" means that, according to the results of a State School's state-school's written student athletics interest survey, the total number of students of one sex who wish to participate in all athletics exceeds by more than 50% the total number of students of the other sex who wish to participate in all athletics. Disparate interest levels do not in and of themselves evidence discrimination.

"Disproportionate Enrollment" means that students of one sex constitute at least 75% of a School's school's participants in a given program, course, or activity. Disproportionate enrollment does not in and of itself evidence discrimination.

"BHS" means the Illinois Department of Human Services.

"Equal Access" means availability of opportunity without discrimination on the basis of sex, going beyond simple admission to a course or activity to include full and unrestricted participation in educational and experiential processes.

"Prime Time" means that time period which is most desirable locally for a given activity.

"Program" means a series of courses or set of activities leading toward identified educational or experiential student outcomes.

"Sex Bias" means the attribution of behaviors, abilities, interests, values and/or roles to a person or group of persons on the basis of their sex.

"Sexual Harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

"Sexual Intimidation" means any behavior, verbal or nonverbal, which has the effect of subjecting members of either sex to humiliation, embarrassment or discomfort because of their gender.

"Significant Assistance" means the payment of dues, fees, or other remuneration in return for the provision of services or benefits, or any other collaboration that significantly facilitates the functioning of any agency, organization, or person outside a State School state

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

school.

"State-School" means any school operated by BHS in the State of Illinois for the purpose of providing special education services to children who are physically or mentally handicapped, and Illinois School for the Visually Impaired.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 829.20 Applicability

Nothing contained herein shall be construed as relieving a State School of its duty to comply with Title IX of the Education Amendments of 1972 (20 USC § 1681 et seq.) or its implementing regulations (34 CFR 106).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 829.30 Administration

a) All policies and practices of the State Schools shall comply with Title IX of the Education Amendments of 1972 (20 USC § 1681 et seq.), Article I, Section 18 of the Illinois Constitution, and Sections 10-22.5 and 27-1 of the School Code [105 ILCS 5/10-22.5 and 27-1].

b) The State Schools shall not discriminate on the basis of sex in the provision of programs, activities, services, or benefits. They shall guarantee both sexes equal access to educational and extracurricular programs and activities.

c) Any individual(s) wishing to appeal a decision of action present a complaint alleging that a State School has discriminated against a student or students on the basis of the student's sex may do so as set forth in 89 Ill. Adm. Code 510 (Appeals).

d) Each State School shall take reasonable measures to assure that employees, students and parents are informed of the School's sex equity policy and grievance procedure, e.g., through the use of policy manuals and student handbooks.

e) Each State School shall, within one year of the effective date of this Part and at least every four years thereafter, evaluate its policies and practices in terms of the requirements of these rules to identify sex discrimination and shall develop a written sex equity plan to modify any policy or practice that does not meet the requirements of those rules and take remedial steps to eliminate the effects of any discrimination resulting from such policy or practice.

- 1) The sex equity evaluation shall include an examination of course enrollment data to identify any instances of disproportionate enrollment on the basis of sex and, where discrimination may have contributed to such disproportionality, the sex equity plan shall

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

seek to redress any such disproportionality identified.

- 2) DHS shall assure that inservice training implementing the sex equity plan shall be provided to State School state-school administrators and to certificated and noncertificated personnel annually.

f) Except as provided in Section 829.70(a)(4) and 829.100, a State School state-school may not, on the basis of sex, designate or otherwise limit the use of any facility or portion thereof, related services, equipment or supplies. This Section shall not apply to shower and toilet facilities, locker rooms, dormitories, and dressing areas. All such accommodations and all related support and maintenance services shall be comparable for both sexes.

g) Except as provided in Section 829.70(a)(4), a State School state-school may not provide significant assistance to or enter into any agreement with any organization, group, business or individual that discriminates against students on the basis of sex.

h) A State School state-school shall not institute organizational changes or employment practices which would result in discrimination against students of either sex.

i) A State School state-school shall maintain records documenting compliance with this Part, e.g., records of sex equity evaluations and plans, remediation efforts and inservice activities, athletic interest survey results, enrollment data, grievances and their disposition; such records shall be made available to Illinois State Board of Education (ISBE) enforcement authorities upon request.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 829.40 Treatment of Students

a) No student shall, on the basis of sex, be denied equal access to programs, activities, services or benefits or be limited in the exercise of any right, privilege, advantage, or opportunity.

b) A State School state-school shall apply the same system and program admission standards for both sexes.

c) A State School state-school shall not set quotas limiting the number of either male or female students who will be admitted to the State School's school's programs, courses or activities unless such quotas have the effect of furthering affirmative action goals established by the State School school to overcome the effects of conditions that resulted in limited participation in a program or activity by persons of a particular sex.

d) Graduation requirements shall be the same for both sexes.

e) No student shall be discriminated against because of his or her actual or potential marital or parental status.

- 1) Pregnancy shall be treated as any other temporary disability.
- 2) Pregnancy or parenthood shall not be considered cause for

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- dismissal or exclusion from any program or activity.
- 3) Participation in special programs provided for pregnant students or students who are parents shall be at the student's option.
 - 4) State Schools ~~schoets~~ shall eliminate administrative and programmatic barriers to school attendance and school completion by pregnant students or students who are parents.
 - 5) State Schools ~~schoets~~ will not pay for medical care directly related to pregnancy or for child care for the children of students.
 - f) No student shall be subjected to sexual intimidation or harassment by any State School ~~schoet~~ employee, by other students, or by the effect of any school policy or practice.
 - g) A State School ~~state-schoet~~ shall not discriminate on the basis of sex in the bestowing of awards, honors, scholarships and financial aid.
 - h) A State School ~~state-schoet~~ may not discriminate on the basis of sex in the provision of employment opportunities for students; a state school may not enter into work study or cooperative employment agreements with employers who discriminate against students on the basis of sex.
 - i) The State Schools' ~~state-schoets~~ discipline policies and practices shall not discriminate on the basis of sex.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 829.50 Educational Programs and Activities

- a) General Practices
 - 1) All courses shall be open to students regardless of their sex, although students may be segregated by sex during class sessions or portions thereof which deal exclusively with human sexuality.
 - 2) Students shall be advised to take courses consistent with their interests and abilities, regardless of their sex.
 - 3) Neither course titles nor course descriptions shall discourage either sex from enrolling.
 - 4) Course prerequisites and course requirements shall be the same for both sexes.
 - 5) Course content and course objectives shall not discriminate on the basis of sex.
- b) Selected Program Areas
 - 1) Music
 - A) Students shall not be separated according to sex when participating in voice instruction, although divisions within a class may be established on the basis of vocal range and quality.
 - B) The study of musical instruments shall be suited to students' individual interests and abilities, regardless of their sex.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 2) Physical Education
 - A) Each physical education class shall be open equally to both sexes.
 - i) Instructional portions of all physical education classes shall be coeducational.
 - ii) A student may be segregated by sex during participation in a contact sport, upon parental request or when the student's safety is at jeopardy.
 - B) Where assignments to classes or portions of classes are based on ability levels, group composition shall be determined by objective standards of individual performance developed and applied without regard to sex, and students shall be re-grouped at appropriate intervals, e.g., when substantial changes occur in either teaching objectives or student ability levels.
 - C) If the use of a single standard for measuring skill or progress in a physical education class results in discrimination against members of either sex, appropriate standards which do not have such effect shall be used.
 - D) Neither physical education classes nor areas where such classes are conducted shall be designated by sex.
- 3) Special Education
 - A) Special education referral, testing and placement practices shall not discriminate on the basis of sex.
 - B) Classes and related services for students with disabilities shall not discriminate on the basis of sex.
- 4) Gifted Education
 - A) Gifted education referral, testing and placement practices shall not discriminate on the basis of sex.
 - B) Programs and classes or related services for gifted students shall not discriminate on the basis of sex.
- 5) Vocational and Career Education
 - A) Students shall be provided opportunities to acquire knowledge and understanding of vocational and career options without discrimination on the basis of sex.
 - B) Materials used in vocational and career education shall not discriminate on the basis of sex.
- c) Classroom Practices
 - 1) Classroom practices shall not discriminate on the basis of sex.
 - 2) Teaching methods shall in no way inhibit the participation of any student on the basis of sex.
 - 3) The history, roles and contributions of both sexes shall be presented on a comparable basis in curricular areas.
 - 4) Teachers shall utilize employ methods designed to counteract sex bias in instructional materials.
 - 5) Instructional materials shall not be discriminatory against either sex.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 829.60 Counseling Services

a) Counseling services shall be provided without discrimination on the basis of sex.

- 1) Students shall not be assigned to a counselor on the basis of sex.
- 2) Students shall be counseled to take courses and pursue careers that are consistent with their strengths, interests and abilities, regardless of their sex.
- b) Career materials used in counseling students shall not discourage, by word or image, the consideration by both sexes of all careers addressed in the materials.
- c) The content, administration, interpretation and application of appraisal instruments and associated materials shall not discriminate against students on the basis of sex.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 829.70 Extracurricular Programs and Activities

a) General Practices

- 1) Except as provided in subsection (b)(1)(A) of this Section, students of both sexes shall have equal access to all extracurricular programs and activities, including clubs, committees, service or honor organizations, intramural sports programs, interscholastic athletics and other after-school activities which are offered by a State School state-school.
- 2) Except as provided in subsection (b)(1)(A) of this Section, extracurricular programs and activities offered by a State School state-school shall not use titles which imply that membership or participation is restricted on the basis of sex.
- 3) A State School state-school shall not provide significant assistance to any association or conference whose purpose is to organize or regulate interscholastic competition if that association or conference discriminates on the basis of sex in the provision of benefits or services to students.
- 4) State Schools schools may cooperate with single sex youth organizations that are tax exempt and whose membership has traditionally been limited to members of one sex and principally to persons who are under 19 years of age, provided that comparable activities shall be available for both sexes.

b) Selected Activity Areas

- 1) Athletics (Interscholastic and Intramural)
 - A) Both sexes shall be accorded equal opportunities to

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

participate in athletic programs.

- i) Single-sex teams are permitted for contact sports or when selection for team membership is based upon competitive skill, provided the interests and abilities of both sexes are accommodated.
 - ii) In a noncontact sport, when a team is provided only for members of one sex, members of the excluded sex must be allowed to compete for a place on the team if their overall athletic opportunities have been limited in comparison with those of the other sex.
 - iii) Where a coeducational team in a given sport does not accommodate the interests and abilities of members of both sexes, separate teams shall be afforded by sex. For example, if the level of interest determined pursuant to subsection (b)(1)(B) indicates that 30 students of one sex and 30 students of the other sex want to participate in a particular sport, but only one student of the first sex is able to qualify to compete while 20 students of the other sex do so, a coeducational team does not accommodate the interests and abilities of both sexes.
- B) Within one year of the effective date of this Part and at least once every four years thereafter, each State School state-school shall assess student athletics interest by administering a written survey to all students. If survey data indicate that the overall levels of student interest in the range of alternatives being provided are disparate between the sexes and such disparity may be the result of discrimination, the State School state-school shall initiate efforts to reduce such disparity.
- C) Based upon the results of the interest survey, existing offerings and other pertinent factors (e.g., budget, facilities, available competition, etc.), each State School state-school shall provide comparable continuity in sports opportunities for students of both sexes (i.e., students have the opportunity to acquire skills at successive levels, over time, within a given sport).
- D) The nature and extent of the athletics programs offered by a State School state-school shall accommodate the interests and abilities of both sexes to a comparable degree. Factors to be considered in assessing program comparability include, but are not necessarily limited to, the following:
- i) selection of sports offered,
 - ii) levels of competition within sports,
 - iii) length of sports seasons,
 - iv) scheduling of athletics opportunities throughout the calendar year.
 - v) scheduling of practices and games during prime time,

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- vi) use of facilities for practice and competition,
- vii) ratio of coach(es) to athletes,
- viii) quality of coaching and officiating (e.g., credentials, experience and compensation),
- ix) assignment and compensation of coaches and officials,
- x) supplies and equipment,
- xi) allowances for travel and per diem,
- xii) medical and training services,
- xiii) publicity for teams and individual participants,
- xiv) overall distribution of athletic budget funds.

2) Music

- A) Chorus segregated by sex shall not be allowed; however, choral groups based upon vocal range and quality are allowable.
- B) Instrumental music skill acquisition and performance shall be based upon students' individual interests and abilities, regardless of their sex.

3) Speech and Drama

- A) Competitive speaking events shall be open to both sexes.
- B) Materials limited to a single sex (e.g., a monologue specific to one sex) may be used as long as comparable opportunities are provided for both sexes.

4) Miscellaneous

- A) Activities such as cheerleading, pompom squads, color guards, school safety patrol, teacher/office aides, and library assistants shall be open to students of both sexes.
 - i) Participation criteria, selection procedures, or uniform restrictions which would discriminate on the basis of sex shall not be applied.
 - ii) Criteria for the utilization of such groups shall not discriminate on the basis of sex.
- B) A king or queen of an activity may be selected; however, comparable opportunities for students of both sexes shall be provided.
- C) If a State School state--school sponsors mother-son, father-daughter, mother-daughter, or father-son activities, comparable activities shall be available for both sexes, and the special needs of children from single-parent families shall be accommodated.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 829.80 Compliance and Enforcement

Compliance with this Part will be subject to evaluation during the recognition process for the State Schools state-schools established in 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision).

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 829.90 Effects of Other Requirements

The obligation to comply with this Part is not obviated or alleviated by any policy or regulation of any club, organization, athletic league or other association which would limit the eligibility or participation of students on the basis of their sex in any program or activity operated by any State School state-school covered by this Part.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 829.100 Supervision of Students by School Staff

- a) Direct supervision of female students shall be by adult female staff while they are in their living quarters at night.
- b) Supervision and assistance of female students, as necessary, in the performance of personal hygiene will be performed by an adult female staff.
- c) Extracurricular activities that require overnight stays away from the State School will be supervised by female staff when the students involved are female.

(Source: Added at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Special Education Instructional Program2) Code Citation: 89 Ill. Adm. Code 7703) Section Numbers: Proposed Action:

770.10 Repealed

770.20 Repealed

770.30 Repealed

770.40 Repealed

4) Statutory Authority: Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13].5) A Complete Description of the Subjects and Issues Involved: This Part is being repealed. The language can now be found in Part 750.6) Will this proposed rule replace an emergency rule currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No9) Are there any other amendments pending on this Part? No10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
 Bureau of Administrative Rules and Procedures
 Department of Human Services
 100 South Grand Avenue East
 3rd Floor, Harris Bldg.
 Springfield, IL 62762
 Telephone number: (217) 785-9772
 TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

A) Types of small businesses, small municipalities and not for profit corporations affected: NoneB) Reporting, bookkeeping or other procedures required for compliance: NoneC) Types of professional skills necessary form compliance: None13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Repealer begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 770
SPECIAL EDUCATION INSTRUCTIONAL PROGRAM (REPEALED)

Section 770.10	Instructional Programs
770.20	Curriculum
770.30	Considerations
770.40	Determinants

AUTHORITY: Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 18, 1982; codified at 6 Ill. Reg. 13374; amended at 12 Ill. Reg. 6966, effective April 1, 1988; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; repealed at 22 Ill. Reg. _____, effective _____.

Section 770.10 Instructional Programs

Special education instructional programs shall be designated in direct response to the educational and rehabilitation needs of the students served by the State School.

a) Specific types of instructional programs may be formulated according to common exceptional characteristics of the students, or, for students with differing secondary exceptional characteristics:

- 1) Instructional programs formulated according to common exceptional characteristics of the student shall be in accordance with those characteristics described in 89 Ill. Adm. Code 765.10.
- 2) Instructional programs which group students with differing secondary exceptional characteristics shall be formulated only under the following circumstances:

- A) The students are grouped in relation to a common educational need, or
 - B) The program can be completely individualized, and
 - C) The teacher is qualified to plan and provide an appropriate educational program for each student in the group.
- b) Student-based objectives shall be developed for each type of special education instructional program.
- c) The objectives of the program shall have direct and observable relationship to the objectives which have been established for each student who is placed in that program.

Section 770.20 Curriculum

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

a) A curriculum of educational experiences adaptable to individual needs, interests, or abilities of each student shall be developed for each type of instructional program.

b) The curriculum shall be:

- 1) Sequential.
- 2) Developmental.
- 3) Goal-directed.
- 4) Clearly stated and available to the public.
- 5) Subject to continuing evaluation and revision.

Section 770.30 Considerations

a) In the formation of special education instructional programs, consideration shall be given to the chronological age, mental age, physical size, motor ability, level of achievement, and social and emotional adjustment of the students.

b) The chronological age range of students within an academic special program or in any academic individual instructional grouping shall not exceed four (4) years.

Section 770.40 Determinants

The principle determinants of the number of students served in each special education instructional program shall be the age of the students, the nature and severity of their exceptional characteristics, the nature of the instructional program, and the degree of intervention necessary. All exceptions to the following program size limitations for academic classes shall require the written approval of the Illinois Department of Human Services (DHS) and the Illinois State Board of Education prior to the implementation of the program.

- a) Academic instructional programs for students 5 years of age and younger shall have a maximum ratio of one qualified teacher to five students in attendance at any one given time; total enrollment shall be limited according to the needs of the students for individualized programming.
- b) Academic instructional programs which primarily serve students whose exceptional characteristics are either profound in degree or multiple in nature shall have a maximum enrollment of five students.
- c) Academic instructional programs which primarily serve students whose principle exceptional characteristics are severe visual, auditory, physical, speech or language impairments, or behavioral disorders shall have a maximum enrollment of eight elementary students, or 12 high school students.
- d) Academic instructional programs which primarily serve students whose principle exceptional characteristics are moderate visual or auditory impairment shall have a maximum enrollment of 12 students.
- e) The State School may increase the enrollment in a special education instructional program by a maximum of two additional students to meet

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

unique circumstances which occur during the school year. Such additions may be made only when the educational needs of all students who would be enrolled in the expanded program can be adequately and appropriately met, or, the State School may increase the enrollment in a special education instructional program by a maximum of five additional students when the program is divided with a full-time, noncertified assistant.

- f) When the State School wishes to exceed the maximum enrollments indicated above, approval shall be requested in writing to DHS and the Department of Special Educational Services, Illinois State Board of Education. The request shall include a rationale for the proposed enrollment deviation and a plan for its evaluation. If the request for an enrollment deviation is approved by DHS but is denied by the Department of Special Education Services, DHS may appeal the decision to the State Superintendent of Education.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Special Education Personnel

- 2) Code Citation: 89 Ill. Adm. Code: 810

- 3) Section Numbers: Proposed Action:

810.10 Repealed

810.20 Repealed

810.30 Repealed

810.40 Repealed

810.50 Repealed

810.60 Repealed

810.70 Repealed

810.80 Repealed

810.90 Repealed

- 4) Statutory Authority: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

- 5) A Complete Description of the Subjects and Issues involved: This entire Part is being repealed.

- 6) Will this proposed rule replace an emergency rule currently in effect?
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: July, 1998

The full text of the Proposed Repealer begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 810
SPECIAL EDUCATION PERSONNEL
(REPEALED)

Section

- 810.10 Employment of Professional and Noncertified Personnel
810.20 Qualifications of Professional Instructional Personnel
810.30 Qualifications of Other Professional Personnel
810.40 Valid Certificate
810.50 Certificates of Supervisory Personnel
810.60 Chief Educational Administrator's Certificate
810.70 Exemption from Requirements
810.80 Supervision of Noncertified Personnel
810.90 Personnel Development Program

AUTHORITY: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 18, 1982; codified at 6 Ill. Reg. 13378; amended at 14 Ill. Reg. 3661, effective February 27, 1990; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; repealed at 22 Ill. Reg. _____, effective _____.

Section 810.10 Employment of Professional and Noncertified Personnel

Professional and noncertified personnel shall be employed in sufficient numbers, with appropriate qualifications, to deliver to each student resident in the State School the necessary special education program.

Section 810.20 Qualifications of Professional Instructional Personnel

Professional instructional personnel shall qualify under any one of the following circumstances:

- Hold standard Special Illinois Teachers Certificate, Type 10, in the area of responsibility.
- Hold standard Illinois Teachers Certificate and have met full approval outlined by the Illinois State Board of Education in the Special Education Certification and Approval Requirements and Procedures.
- Hold standard Illinois Teachers Certificate and receive approval by the Illinois State Board of Education for specialized functioning in relation to a special education program.

Section 810.30 Qualifications of Other Professional Personnel

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

Other professional personnel employed by the State School to provide special education services shall hold qualifications appropriate to the area of responsibility and shall be approved by the Illinois State Board of Education in the Special Education Certification and Approval Requirements and Procedures, and/or the Illinois Department of Personnel.

Section 810.40 Valid Certificate

Each administrator and assistant administrator of special education programs shall hold a valid certificate appropriate to the area of responsibility and shall meet requirements for approval as outlined by the Illinois State Board of Education in the Special Education Certification and Approval Requirements and Procedures.

Section 810.50 Certificates of Supervisory Personnel

Supervisory personnel shall hold a valid certificate in the area of responsibility and shall meet requirements for approval as outlined by the Illinois State Board of Education in the Special Education Certification and Approval Requirements and Procedures and/or the Illinois Department of Personnel.

Section 810.60 Chief Educational Administrator's Certificate

The chief administrator of the educational program of a State School shall hold a principal's certificate, or the equivalent, and approval in at least one area of exceptionality served by the School.

Section 810.70 Exemption from Requirements

All professional personnel, supervisors, and administrators who were employed to provide special education services at the State Schools on or before September 30, 1980, shall be exempt from the requirements of this Part so long as they remain in the positions they held in September 30, 1980.

Section 810.80 Supervision of Noncertified Personnel

- a) Necessary noncertified personnel employed in classes, programs, or services in all areas of special education shall be under the direct supervision of a qualified specialist.
- b) All necessary noncertified personnel employed in relation to special education instructional programs or related services shall be provided with in-service training experiences appropriate to the nature of their responsibilities. For noncertified personnel working in a special education instructional program, such in-service training shall be in lieu of the requirements for noncertified personnel set by the State Teacher Certification Board.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

Section 810.90 Personnel Development Program

A comprehensive personnel development program shall be developed and implemented for all personnel involved with the education of exceptional children.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Special Education Related Services2) Code Citation: 89 Ill. Adm. Code 7753) Section Numbers: Proposed Action:

775.10	Repealed
775.20	Repealed
775.30	Repealed
775.40	Repealed
775.50	Repealed

4) Statutory Authority: Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13].5) A Complete Description of the Subjects and Issues involved: This Part is being repealed.6) Will this proposed rule replace an emergency rule currently in effect?
No7) Does this rulemaking contain an automatic repeal date? No8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No9) Are there any other amendments pending on this Part? No10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.A) Types of small businesses, small municipalities and not for profit corporations affected: NoneB) Reporting, bookkeeping or other procedures required for compliance: NoneC) Types of professional skills necessary form compliance: None13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Repealer begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 775

SPECIAL EDUCATION RELATED SERVICES (REPEALED)

Section

775.10 Related Services to be Provided or Arranged
775.20 Other Related Services
775.30 Student-based Objectives
775.40 Specific Objectives
775.50 Time Spent

AUTHORITY: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 18, 1982; codified at 6 Ill. Reg. 13793; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; repealed at 22 Ill. Reg. _____, effective _____.

Section 775.10 Related Services to be Provided or Arranged

a) Related services which shall be provided or arranged for by the State School are: those activities supplemental to the basic special education instructional programs which serve to facilitate the student's development. The activities include evaluation, or consultation services.

b) The related services to be provided are:

1) Speech and language services for all students with speech or language impairments which interfere with their educational or social development.

A) Speech and language services may be made available as:

i) A special education related service.

ii) A special education instructional program.

B) Speech and language services shall include, but not be limited to:

i) Screening and diagnosis for students with suspected speech or language impairment;

ii) Planning and developing and clinical program;

iii) Provision of therapeutic services for the habilitation or prevention of communicative disorders;

iv) Parent counseling;

v) Referrals and follow-up;

vi) Consultative and resource services to other professional personnel.

C) The number of students seen by a speech and language

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

clinician shall be based on the nature of the speech and language needs of the individual students. At no time shall the caseload exceed eight (80) students.

2) School psychological services to and on behalf of students who require psychological evaluation and assistance in their educational or behavioral adjustment.

A) School psychological services shall include, but not be limited to:

i) Screening of school enrollments to identify students who should be referred for individual study.

ii) Individual psychological examination and interpretation of those findings and recommendations which will lead to meaningful educational experiences for the student.

iii) Counseling and performing psychological remedial measures as appropriate to the needs of students, individually or in groups.

iv) Participating in parent education and the development of parent understanding.

v) Consulting with teachers and other school personnel in relation to behavior management and learning problems.

vi) Consulting in program development.

B) School psychological services shall be available, in an appropriate quantity, to all students for whom the State School is responsible.

C) School psychological services shall be utilized to assist in the process of development an educational climate conducive to the optimum development of all students. Emphasis shall be placed on prevention as well as rehabilitation, or indirect as well as direct services.

3) School social work services to and on behalf of students whose educational or behavioral development is restricted due to social or emotional considerations, family circumstances, or problems of the environment.

A) School social work services shall include, but not be limited to:

i) Services to school personnel on behalf of students. The school social worker shall provide consultation and in-service training experiences to school personnel.

ii) Identification of students in need of services. The school social worker shall be responsible for providing the social developmental study in a case study evaluation and for participating in the identification of those students who require social work intervention.

iii) Direct services to students.

iv) Service to parents on behalf of students. The school

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

social worker shall be responsible for serving as a liaison between the home and the school and for providing parental education and counseling as appropriate in relation to the student's problem.

- v) Utilization of community resources. The school social worker shall facilitate the effective utilization of existing community resources to meet the needs of students and shall assist in developing services which are needed but unavailable.

- B) School social work services shall be available, in an appropriate quantity, to all students for whom the State School is responsible.

- C) School social work services shall be utilized to assist in the process of developing an educational climate conducive to the optimum development of all students. Emphasis shall be placed on prevention as well as rehabilitation, on indirect as well as direct services.

- 4) Special reader services, braillists, notetakers, typists, and interpreters shall be provided as required by the student's IEP.

- 5) Physical or occupational therapy shall be provided for exceptional students whose physical impairments require appropriate therapeutic attention if the students are to receive full benefit from the instructional program provided them. Such therapy shall be provided to individual students in accordance with the recommendation and prescription of a licensed medical examiner.

- 6) Consultant services shall be provided as required by the IEP.

- A) Professional consultation which provides a therapeutic component shall be provided to those special education instructional programs which serve students who exhibit affective or behavioral disorders.

- B) Other consultant services shall be provided as required to facilitate the education of exceptional students and as approved by the Illinois Department of Rehabilitation Services.

- 7) Physical education programs consisting of organized instructional units shall be provided to students in accordance with their needs and as determined by the IEP.

- 8) Interscholastic competition in athletics shall be provided to students in accordance with their needs, abilities, and interests. A significant portion of this competition shall be with teams or individuals who are not handicapped.

- 9) A wide range of extracurricular activities, including intramural sports, clubs, dramatics, student councils, and various types of social activities shall be provided to students in accordance with their needs and interests.

- 10) Orientation and mobility training consisting of organized and instructional units under the direction of an orientation and

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

mobility instructor shall be provided to visually impaired and deaf-blind students in accordance with their needs and as determined by the IEP.

Section 775.20 Other Related Services

Other related services including school health services, counseling services and parent counseling or training shall be provided or arranged for by the State School when the multidisciplinary conference determines that such services would facilitate the educational development of the student.

Section 775.30 Student-based Objectives

Student-based objectives shall be determined for each special education related service.

Section 775.40 Specific Objectives

Specific objectives shall be established for each student who receives special education related services.

Section 775.50 Time Spent

Related services time spent with or on behalf of the student shall be sufficient to be educationally or therapeutically adequate, as determined by the evaluation of the student's needs.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Special Transportation2) Code Citation: 89 Ill. Adm. Code 8153) Section Numbers: Proposed Action:

815.10 Amendment

815.20 Amendment

815.30 Amendment

815.40 Amendment

4) Statutory Authority: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].5) A Complete Description of the Subjects and Issues involved: Minor changes to this Part have been made to the language.6) Will this proposed rule replace an emergency rule currently in effect?
No7) Does this rulemaking contain an automatic repeal date? No8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No9) Are there any other amendments pending on this Part? No10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis: The Department has determined

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

that this rulemaking will not affect small businesses.

A) Types of small businesses, small municipalities and not for profit corporations affected: NoneB) Reporting, bookkeeping or other procedures required for compliance: NoneC) Types of professional skills necessary form compliance: None13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendment(s) begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 815
SPECIAL TRANSPORTATION

- Section
815.10 Special Transportation Services
815.20 Adaptation of Vehicles
815.30 In-Service Training for Transportation Personnel
815.40 Scheduling of Transportation

AUTHORITY: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 18, 1982; codified at 6 Ill. Reg. 13796; amended at 12 Ill. Reg. 11260, effective June 15, 1988; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. _____, effective _____.

Section 815.10 Special Transportation Services

- a) The local school district of ~~parental/student-residence~~ shall provide transportation services for students placed in State Schools ~~state-operated-schools~~ at for the beginning and close of the school term which is applicable to the student's placement.
- b) During the annual review of individualized educational programs (IEP) for students continuing placement at State Schools ~~state-operated schools~~, an agreement shall be developed between representatives of the Department of Human Services, representatives of the local school districts of ~~parental/student-residence~~, and the student's parents or guardians regarding the mode, frequency, and provider of special education transportation services beyond the trips to begin and end the school term.
- c) If an initial placement, the provision of special education transportation services beyond the trips to begin and end the school term shall be determined and agreed upon between the above named parties during the meeting at which an IEP is developed for the student.
- d) The provision for transportation services shall be included in the IEP.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 815.20 Adaptation of Vehicles

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Vehicles utilized by the State School for special transportation at the State School shall be adapted for to the specific needs of the children receiving this service.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 815.30 In-Service Training for Transportation Personnel

Personnel responsible for special transportation at the State School shall be given in-service training ~~experiences~~ which will enable them to understand and appropriately relate to exceptional children.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 815.40 Scheduling of Transportation

Special transportation shall be scheduled in such a way that a student's health and ~~ability-to-relate-to-the~~ educational experiences ~~provided~~ are not adversely affected.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: State-Operated or Private Programs

2) Code Citation: 89 Ill. Adm. Code 790

3) Section Numbers: Proposed Action:
790.10 Repealed

4) Statutory Authority: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

5) A Complete Description of the Subjects and Issues involved: This Part is being repealed.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed repealer contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

A) Types of small businesses, small municipalities and not for profit corporations affected: None

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July, 1998.

The full text of the Proposed Repealer begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 790
STATE-OPERATED OR PRIVATE PROGRAMS
(REPEALED)

Section

790.10 Legal Authority To Place Students

AUTHORITY: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 18, 1982; codified at 6 Ill. Reg. 14567; amended at 12 Ill. Reg. 10522, effective June 3, 1988; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; repealed at 22 Ill. Reg. _____, effective _____.

Section 790.10 Legal Authority To Place Students

The State Schools do not have legal authority to place exceptional students in other state-operated or private facilities. Placement of students in need of the services of such facilities is handled in accordance with 23 Ill. Adm. Code 226.410 through 226.460.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Surrogate Parents

2) Code Citation: 89 Ill. Adm. Code 805

3) Section Numbers:
805.10 Repealed
805.20 Repealed
805.30 Repealed
805.40 Repealed

4) Statutory Authority: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

5) A Complete Description of the Subjects and Issues involved: This entire Part is being repealed.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Repealer begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 805
SURROGATE PARENTS (REPEALED)

Section
805.10 Need for Surrogate Parents
805.20 Withdrawal of Surrogate Parent
805.30 Expenses of Surrogate Parents
805.40 Notification When Surrogate Parent Not Needed

AUTHORITY: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 18, 1982; codified at 6 Ill. Reg. 13795; amended at 12 Ill. Reg. 5453, effective March 8, 1988; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; repealed at 22 Ill. Reg. _____, effective _____.

Section 805.10 Need for Surrogate Parents

The State Schools shall make all reasonable attempts to contact the parents of the student who has been referred. If the parent is unavailable or inaccessible and the State School has reason to believe that a surrogate parent is needed, the request for the appointment of such a person shall be sent to the Illinois State Board of Education, Legal Department, Springfield.

- a) The State School shall provide documentation of their efforts to contact the parents.
- b) The State School shall provide information on the racial, linguistic and cultural background of the student whose parents are unavailable or inaccessible.

Section 805.20 Withdrawal of Surrogate Parent

The State School shall inform the Illinois State Board of Education if the student's parent becomes known or available. In such cases the services of the surrogate parent shall be withdrawn.

Section 805.30 Expenses of Surrogate Parents

The Illinois State Board of Education will pay expenses and a per diem to the surrogate for his or her services, in accordance with the Illinois State Board of Education travel regulations.

Section 805.40 Notification When Surrogate Parent Not Needed

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

If the Illinois State Board of Education determines that a surrogate parent is not needed, the State School shall be notified, in writing, regarding this decision. As appropriate, this notification shall indicate the reasons for the decision or direct the State School regarding further action in the matter.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Special Education Program and Services

2) Code Citation: 89 Ill. Adm. Code 765

3) Section Numbers:

765.10	<u>Proposed Action:</u>
	Amendment
765.20	Amendment
765.30	Amendment
765.40	Amendment
765.50	Amendment
765.60	Amendment
765.70	Repealed
765.80	Repealed
765.90	Repealed
765.100	New Section
765.110	New Section
765.120	New Section
765.130	New Section
765.140	New Section
765.200	New Section
765.210	New Section
765.220	New Section
765.230	New Section
765.300	New Section
765.310	New Section
765.320	New Section
765.330	New Section

4) Statutory Authority: Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11, and 13].

5) A Complete Description of the Subjects and Issues involved: This Part combines Rules which were previously found in other Parts.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July, 1998

The full text of the Proposed Amendment(s) begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 765

THE ESTABLISHMENT AND ADMINISTRATION OF SPECIAL EDUCATION PROGRAM AND SERVICES

SUBPART A: ADMINISTRATION OF EDUCATIONAL PROGRAM

Section	
765.10	Special Education Instructional Programs
765.20	Range of Services
765.30	Availability of Services
765.40	Involvement of Students with Disabilities in Activities
765.50	Adequacy of Facilities
765.60	Written Policies
765.70	State Approved Administrator of Special Education (Repealed)
765.80	State-Approved Supervisory Services (Repealed)
765.90	Role of Principal (Repealed)

SUBPART B: SERVICE PROVIDED

Section	
765.100	Related Services to be Provided or Arranged
765.110	Other Related Services
765.120	Student-based Objectives
765.130	Specific Objectives
765.140	Time Spent

SUBPART C: SPECIAL EDUCATION INSTRUCTIONAL PROGRAM

Section	
765.200	Instructional Programs
765.210	Curriculum
765.220	Considerations
765.230	Determinants

SUBPART D: VOCATIONAL PROGRAMS

Section	
765.300	Provision of Vocational Programs to Exceptional Students
765.310	Vocational Plan
765.320	Community Work Experiences
765.330	Coordination With Other Programs

AUTHORITY: Implementing Sections 3, 10, 11 and 13 and authorized by Section 3

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 18, 1982; codified at 6 Ill. Reg. 14859; amended at 12 Ill. Reg. 12103, effective July 8, 1988; amended at 13 Ill. Reg. 5154, effective March 30, 1989; amended at 15 Ill. Reg. 6261, effective April 15, 1991; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. _____, effective _____.

SUBPART A: ADMINISTRATION OF EDUCATIONAL PROGRAM

Section 765.10 Special Education Instructional Programs

Each State School shall establish and maintain special education instructional programs and related services which meet the educational needs of children with the following disabilities exceptional--characteristic:

- a) The Illinois School for the Deaf will maintain programs for students whose primary disability exceptional--characteristic is an auditory impairment of a severe to profound nature.
- b) The Illinois School for the Visually Impaired will maintain programs for students whose primary disability exceptional--characteristic is a visual impairment or who are deaf-blind of a severe to profound nature.
- c) The Illinois Children's School and Rehabilitation Center will maintain programs for students whose primary disability exceptional--characteristic is a physical or health impairment of a severe to profound nature.
- d) Each State School will maintain programs for students with the secondary disabilities listed below provided that the disability(ies) is not so severe that the needs of the student cannot be met appropriately by the State School.
 - 1) Health impairment.
 - 2) Speech or language impairment.
 - 3) Deficits in the essential learning processes of perception, conceptualization, memory, attention, or motor control.
 - 4) Deficits in intellectual development and mental capacity.
 - 5) Educational maladjustment related to social or cultural circumstances.
 - 6) Affective disorders or adaptive behavior which restricts effective functioning.
- e) Each State School shall annually prepare a school calendar for the school term, specifying the opening and closing dates and providing a minimum of at least 185 days to ensure insure 176 days of actual student attendance. Any of the four days allowed for teachers' institute, but not used for such, shall increase the minimum term by the number of school days not so used. A State School may specify a closing date earlier than that set on the actual calendar when the State School has provided the minimum number of computable days under

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

this rule; i.e., 176 days of actual student attendance plus four days of teachers' institute.

- f) The length of the school day at each State School shall not be less than five clock hours of school work per day under the direct supervision of special education personnel. The school day may be less than five clock hours on the opening and closing of the school term, and on the first day of student attendance, if preceded by a day or days utilized as an institute or teachers' workshop.

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

Section 765.20 Range of Services

Special education instructional programs and related services shall range along a continuum based on the nature and degree of the intervention. This continuum of program options shall include, but not be limited to:

- a) Basic Special Education Program of the State School--The special education program provided to the majority of the students enrolled in the State School.
- b) Basic Special Education Program of the State School with Modification--The student receives most of his/her educational experiences through the basic program of the State School. However, these experiences are modified through:
 - 1) Additional or specialized education from the teacher.
 - 2) Consultation to and with the teacher.
 - 3) Provision of special equipment and materials.
 - 4) Modification in the instructional program (e.g., multi-age placement, expectations, grading, etc.).
- c) Alternate Basic Special Education Program of the State School--The student receives most of his/her educational experiences in a basic program whose curricular content and educational methodology have been substantially changed. Such changes shall occur when the special education needs of a proportionately large, identifiable segment of the school population are not otherwise being met.
- d) Basic or Alternate Basic Educational Program of the State School with Related Services--The student receives most of his/her educational experiences through the basic, or alternate basic, program. However, these experiences are augmented by one or more related services.
- e) Special Program--The student receives most of his/her basic educational experiences through an instructional program in a special class, which is largely self-contained, in the State School.
 - 1) Inclusion in those parts of the basic special education program which are appropriate.
 - 2) Provision of related services as needed.
- f) Cooperative Program--The student receives most of his/her educational experiences through either the basic or the special program of the State School. However, this is supplemented through work-experience

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

programs or shared agency involvement. Cooperative programs may include integration of students into academic and nonacademic programs and services provided by a public school district, provided the programs and services are available in the public school district and the student has expressed an interest in such programs or services.

- g) ~~State-Operated-or-Private-Program-not-Administered-by-the-Department-of-Human-Services-(BHS)-the-student-whose-exceptional-characteristics-are-so-profound-or-complex-that-no-special-education-program-offered-by-the-State-Schools-can-adequately-or-appropriately-meet-his/her-needs-is-referred-to-the-local-school-district-of-parental/student-residence-with-diagnostic-data-and-recommendations-for-referral-to-either-another-state-operated-or-a-private-facility--See-09-III-Adm-Code-755-248-and-755-250-~~

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 765.30 Availability of Services

Special education instructional programs and related services, including diagnostic services of the State School, shall be available to students who are enrolled.

- a) A ~~An--exceptional~~ student who requires continued school educational experience to facilitate his or her integration into society shall be considered eligible for such services until age twenty-one or upon successful completion of the secondary program. The student who becomes twenty-one during the school year shall be allowed to complete that year.

- b) A ~~An--exceptional~~ student who has satisfactorily completed a secondary program and has been assisted in locating further educational and vocational experience as necessary shall be granted a diploma. Both parents and the student shall be made aware that eligibility for public school special education services is terminated following the granting of a diploma and that the parents may request a review of the recommendation for graduation.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 765.40 Involvement of Students with Disabilities in Activities

Each State School shall ensure that, to the maximum extent appropriate, students are involved in academic and nonacademic activities with students who are not disabled or who are less disabled.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 765.50 Adequacy of Facilities

Facilities used by the State School for special education programs and services shall be appropriate to, and adequate for, the specific program or service. Such facilities shall be at least equal to those provided to the students in the standard programs in the local school districts throughout the State state.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 765.60 Written Policies

- a) Written policies shall be developed by each State School to govern the method by which student information will be collected, the confidential nature of that information, the use to which it will be put, how it will be recorded and maintained, the period for which it will be maintained, the persons to whom it will be available and under what circumstances. All such policies shall be consistent with:

- 1) The Illinois School Student Records Act [105 ILCS 10] ~~1111--Rev-Stat--1989--ch--1227--par--58-i-et-seq--~~;
- 2) Student Records (23 Ill. Adm. Code 375);
- 3) The Illinois Program for Evaluation, Supervision, and Recognition of Schools, State Board of Education Document Number 1, 1985;
- 4) the Family Educational Rights and Privacy Act (20 USC 8-8-e-1232(g) (1985));
- 5) Illinois Department of Human Rehabilitation Services' policies on Confidentiality (89 Ill. Adm. Code 505) and Access to Public Records (2 Ill. Adm. Code 1176);
- 6) Sec. 2a of the ~~Communicable Disease Prevention Act [410 ILCS 315] "AM--Act--an--retation--to-the-prevention-of-certain-communicable-diseases--A--1111--Rev-Stat--1989--ch--111-i-27-par--22-i-2a--~~;
- 7) The AIDS Confidentiality Act [410 ILCS 305] ~~1111--Rev--Stat--1989--ch--111-i-27-par--730-i-et-seq--~~.

- b) Such policies shall provide that all information maintained concerning a student receiving special education services be directly related to the provision of services to that student.

- c) These policies shall be made known to the parents or guardians of all students receiving special education services, to the public and to any persons who are provided with all or a part of a student's records.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 765.70 State Approved Administrator of Special Education (Repealed)

~~The establishment-and-operation-of-all-special-education-programs-and--services shall--be--under--the-coordination-and-educational-direction-of-a-state-approved~~

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

~~administrator of special education; such administrator refers to an individual functioning in that capacity whose credentials have been approved by the Illinois State Board of Education, and/or the Illinois Department of Central Management Services.~~

(Source: Repealed at 22 Ill. Reg. _____, effective _____)

Section 765.80 State-Approved Supervisory Services (Repealed)

~~All special education programs and services shall be provided with state-approved supervisory services specific to the nature of the program or service. Supervisory personnel shall provide consultation to and coordination of special education programs and services.~~

(Source: Repealed at 22 Ill. Reg. _____, effective _____)

Section 765.90 Role of Principal (Repealed)

~~Within each State-School, the building principal or other designated State School administrator shall, in cooperation with special education administrative and supervisory personnel, facilitate the functioning of special education instructional programs and related services as an integral part of the total State-School program.~~

(Source: Repealed at 22 Ill. Reg. _____, effective _____)

SUBPART B: SERVICE PROVIDED

Section 765.100 Related Services to be Provided or Arranged

a) Related services that shall be provided or arranged for by the State School are those activities supplemental to the basic special education instructional programs that serve to facilitate the student's development. The activities include evaluation or consultation services.

b) The related services to be provided are:

i) Speech and language services for all students with speech or language impairments that interfere with their educational or social development.

A) Speech and language services may be made available as:

ii) A special education related service.

iii) A special education instructional program.

B) Speech and language services shall include, but not be limited to:

i) Screening and diagnosis for students with suspected

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

speech or language impairment;

ii) Planning and developing the clinical program;

iii) Provision of therapeutic services for the habilitation or prevention of communicative disorders;

iv) Parent counseling;

v) Referrals and follow-up;

vi) Consultative and resource services to other professional personnel.

C) The number of students seen by a speech and language clinician shall be based on the nature of the speech and language needs of the individual students. At no time shall the caseload exceed 80 students.

2) School psychological services to and on behalf of students who require psychological evaluation and assistance in their educational or behavioral adjustment.

A) School psychological services shall include, but not be limited to:

i) Screening of school enrollments to identify students who should be referred for individual study.

ii) Individual psychological examination and interpretation of those findings and recommendations that will lead to meaningful educational experiences for the student.

iii) Counseling and performing psychological remedial measures as appropriate to the needs of students, individually or in groups.

iv) Participating in parent education and the development of parent understanding.

v) Consulting with teachers and other school personnel in relation to behavior management and learning problems.

vi) Consulting in program development.

B) School psychological services shall be available, in an appropriate quantity, to all students for whom the State School is responsible.

C) School psychological services shall be utilized to assist in the process of developing an educational climate conducive to the optimum development of all students. Emphasis shall be placed on prevention as well as rehabilitation, or indirect as well as direct services.

3) School social work services to and on behalf of students whose educational or behavioral development is restricted due to social or emotional considerations, family circumstances, or problems of the environment.

A) School social work services shall include, but not be limited to:

i) Services to school personnel on behalf of students. The school social worker shall provide consultation and in-service training experiences to school

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- personnel.
- ii) Identification of students in need of services. The school social worker shall be responsible for providing the social developmental study in a case study evaluation and for participating in the identification of those students who require social work intervention.
 - iii) Direct services to students.
 - iv) Service to parents on behalf of students. The school social worker shall be responsible for serving as a liaison between the home and the State School and for providing parental education and counseling as appropriate in relation to the student's problem.
- v) Utilization of community resources. The school social worker shall facilitate the effective utilization of existing community resources to meet the needs of students and shall assist in developing services that are needed but unavailable.
- B) School social work services shall be available, in an appropriate quantity, to all students for whom the State School is responsible.
 - C) School social work services shall be utilized to assist in the process of developing an educational climate conducive to the optimum development of all students. Emphasis shall be placed on prevention as well as rehabilitation, on indirect as well as direct services.
- 4) Special reader services, braillists, notetakers, typists, and interpreters shall be provided as required by the student's IEP.
 - 5) Physical or occupational therapy shall be provided for students whose physical impairments require appropriate therapeutic attention if the students are to receive full benefit from the instructional program provided them. Such therapy shall be provided to individual students in accordance with the recommendation and prescription of a licensed medical examiner.
 - 6) Consultant services shall be provided as required by the IEP.
 - A) Professional consultation that provides a therapeutic component shall be provided to those special education instructional programs that serve students who exhibit affective or behavioral disorders.
 - B) Other consultant services shall be provided as required to facilitate the education of students and as approved by DHS.
 - 7) Physical education programs consisting of organized instructional units shall be provided to students in accordance with their needs and as determined by the IEP.
 - 8) Interscholastic competition in athletics shall be provided to students in accordance with their needs, abilities, and interests. A significant portion of this competition shall be

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 9) with teams or individuals who are not disabled.
A wide range of extracurricular activities, including intramural sports, clubs, dramas, student councils, and various types of social activities shall be provided to students in accordance with their needs and interests.
 - 10) Orientation and mobility training consisting of organized and instructional units under the direction of an orientation and mobility instructor shall be provided to visually impaired and deaf-blind students in accordance with their needs and as determined by the IEP.
- (Source: Added at 22 Ill. Reg. _____, effective _____)
- Section 765.110 Other Related Services**
- Other related services including school health services, counseling services and parent counseling or training shall be provided or arranged for by the State School when the multi-disciplinary conference determines that such services would facilitate the educational development of the student.
- (Source: Added at 22 Ill. Reg. _____, effective _____)
- Section 765.120 Student-based Objectives**
- Student-based objectives shall be determined for each special education related service.
- (Source: Added at 22 Ill. Reg. _____, effective _____)
- Section 765.130 Specific Objectives**
- Specific objectives shall be established for each student who receives special education related services.
- (Source: Added at 22 Ill. Reg. _____, effective _____)
- Section 765.140 Time Spent**
- Related services time spent with or on behalf of the student shall be sufficient to be educationally or therapeutically adequate, as determined by the evaluation of the student's needs.
- (Source: Added at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART C: SPECIAL EDUCATION INSTRUCTIONAL PROGRAM

Section 765.200 Instructional Programs

Special education instructional programs shall be designed in direct response to the educational and rehabilitation needs of the students served by the State School.

- a) Specific types of instructional programs may be formulated according to common disabilities of the students, or, for students with differing secondary disabilities:

- 1) Instructional programs formulated according to common disabilities of the students shall be in accordance with those disabilities described in Section 765.10 of this Part.
- 2) Instructional programs that group students with differing secondary disabilities shall be formulated only under the following circumstances:

- A) The students are grouped in relation to a common educational need or the program can be completely individualized; and
 - B) The teacher is qualified to plan and provide an appropriate educational program for each student in the group.
- b) Student-based objectives shall be developed for each type of special education instructional program.
- c) The objectives of the program shall have direct and observable relationship to the objectives that have been established for each student who is placed in that program.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 765.210 Curriculum

- a) A curriculum of educational experiences adaptable to individual needs, interests, or abilities of each student shall be developed for each type of instructional program.

- b) The curriculum shall be:

- 1) Sequential.
- 2) Developmental.
- 3) Goal-directed.
- 4) Clearly stated and available to the public.
- 5) Subject to continuing evaluation and revision.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 765.220 Considerations

- a) In the formation of special education instructional programs, consideration shall be given to the chronological age, mental age,

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

physical size, motor ability, level of achievement, and social and emotional adjustment of the students.

- b) The chronological age range of students within an academic special program or in any academic individual instructional grouping shall not exceed four years.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 765.230 Determinants

The principal determinants of the number of students served in each special education instructional program shall be the age of the students, the nature and severity of their disabilities, the nature of the instructional program, and the degree of intervention necessary. All exceptions to the following program size limitations for academic classes shall require the written approval of DHS and the State Board of Education prior to the implementation of the program.

- a) Academic instructional programs for students 5 years of age and younger shall have a maximum ratio of one qualified teacher to five students in attendance at any one given time; total enrollment shall be limited according to the needs of the students for individualized programming.

- b) Academic instructional programs that primarily serve students whose disabilities are either profound in degree or multiple in nature shall have a maximum enrollment of five students.

- c) Academic instructional programs that primarily serve students whose primary disabilities are severe visual, auditory, physical, speech or language impairments or behavioral disorders shall have a maximum enrollment of eight elementary students or twelve high school students.

- d) Academic instructional programs that primarily serve students whose primary disabilities are moderate visual or auditory impairments shall have a maximum enrollment of twelve students.

- e) The State School may increase the enrollment in a special education instructional program by a maximum of two additional students to meet unique circumstances that occur during the school year. Such additions may be made only when the educational needs of all students who would be enrolled in the expanded program can be adequately and appropriately met, or the State School may increase the enrollment in a special education instructional program by a maximum of five additional students when the program is provided with a full-time, noncertified assistant.

- f) When the State School wishes to exceed the maximum enrollments indicated above, approval shall be requested in writing to DHS and the Division of Program Compliance of the State Board of Education. The request shall include a rationale for the proposed enrollment deviation and a plan for its evaluation. If the request for an

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

enrollment deviation is approved by DHS but is denied by the State Board of Education, DHS may appeal the decision to the State Superintendent of Education.

(Source: Added at 22 Ill. Reg. _____, effective _____)

SUBPART D: VOCATIONAL PROGRAMS

Section 765.300 Provision of Vocational Programs to Exceptional Students

Vocational programs consisting of organized instructional and training experiences shall be provided to exceptional students in accordance with their needs and as determined by an IEP at a multi-disciplinary conference.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 765.310 Vocational Plan

A vocational plan indicating specific vocational objectives, the training required, service personnel required, and the length of the proposed program shall be developed for each student determined to require a vocational program.

This plan shall be developed in cooperation with the student and his or her parents, shall be adapted to the student's interests and aptitudes, and shall be incorporated into the IEP.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 765.320 Community Work Experiences

Community work experiences that are part of the student's vocational plan shall occur during the school day, unless this is precluded by the nature of the experience. All community work experiences that are provided by the State School as part of the vocational plan and for which the student receives educational credit shall be supervised by appropriate State School personnel.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 765.330 Coordination With Other Programs

Vocational programs serving exceptional students shall be coordinated with other DHS programs and with other public, private, and State agencies or organizations.

(Source: Added at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Therkelsen/Hansen College Loan Fund

2) Code Citation: 89 Ill. Adm. Code 835

3) Section Numbers: Proposed Action:
 835.10 Amendment
 835.20 Amendment
 835.30 Amendment
 835.35 Amendment
 835.40 Amendment
 835.50 Amendment

4) Statutory Authority: Implementing Sections 3, 5 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 5, and 13].

5) A Complete Description of the Subjects and Issues involved: Minor technical changes have been made to this Part.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
 Bureau of Administrative Rules and Procedures
 Department of Human Services
 100 South Grand Avenue East
 3rd Floor, Harris Bldg.
 Springfield, IL 62762
 Telephone number: (217) 785-9772
 TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendment(s) begins on the next page:

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

"Deaf" and "Hard of Hearing" means a diagnosis of a hearing impairment of 30 db or greater in the better ear.

"Full Time Student" means a student carrying a full study load as determined by the institution he or she is attending or plans to attend.

"Illinois Resident" means a person who shall have resided in Illinois in some capacity other than as a student at a post-secondary educational institution for a period of at least twenty-four continuous months immediately prior to the application for the loan.

"Institution of Higher Learning" means a institution with educational or vocational programs which offer a certificate, associate degree, bachelor's degree, master's degree or any other specialized degree and provides direct communication, instructional programs or support services for the deaf or hard of hearing.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 835.30 Eligibility for Loan

- a) The applicant for a loan from this Fund shall be a graduate of the Illinois School for the Deaf (ISD) or be a deaf or hard of hearing resident of the State of Illinois (as defined in Section 835.20).
- b) If the applicant is not a graduate of ISD, the following records and/or identification cards shall show proof of Illinois Residency:
 - 1) Illinois high school or college transcript;
 - 2) Illinois driver's license;
 - 3) State identification card;
 - 4) apartment rent agreement, house mortgage statement or property tax bill;
 - 5) Illinois Income Tax form IL-1040; or
 - 6) hospital, doctor or clinic record.
- c) A person who reapplies for a second, third or fourth loan must continue to meet the Illinois residency requirement and shall have achieved a "C" average (2.0 on a 4.0 point scale).
- d) Successful applicants shall be registered as full-time students.
- e) The applicant will be required to give permission to the Committee to make inquiries and obtain information so that the information on the application may be verified by the Committee.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 835.35 Award of the Loan

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 835
THERKELSEN/HANSEN COLLEGE LOAN FUND

Section	Purpose and Management of Fund
835.10	Definitions
835.20	Eligibility for Loan
835.30	Award of the Loan
835.35	Terms of the Loan Agreement
835.40	Use of Funds

AUTHORITY: Implementing Sections 3, 5 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 5 and 13].

SOURCE: Adopted at 19 Ill. Reg. 15460, effective October 30, 1995; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. _____, effective _____.

Section 835.10 Purpose and Management of Fund

- a) The Therkelsen/Hansen College Loan Fund (Fund) is established to provide assistance to Illinois deaf and hard of hearing individuals with a financial need to pay for post-secondary expenses at any institution of higher learning which has a program specifically designed for deaf and hard of hearing students.
- b) The loan fund is managed through the Illinois School for the Deaf (ISD) by the Therkelsen/Hansen College Loan Fund Committee (Committee) which is established by the Department of Human Services (DHS). The Committee shall consist of five individuals. The DHS' Associate Secretary or his/her designee shall appoint four individuals representing the Illinois State Board of Education, DHS, public schools serving the deaf and hard of hearing, and the deaf community. Their terms shall be for two years and shall not exceed two consecutive terms. The ISD Superintendent administrator shall serve ex-officio.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 835.20 Definitions

For the purpose of this Part, the following terms have the following meanings:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- a) In awarding the loan, the Committee shall consider the amount of funds available, the applicant's stated financial need supplied in the loan application ~~been--Application~~, the applicant's available financial resources and the total number of applicants.
- b) When all eligibility criteria are met and funds are not available to cover all requests, an applicant from an undergraduate program shall receive priority over a student from a graduate program.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 835.40 Terms of the Loan Agreement

- a) The minimum yearly amount of a loan shall be \$500 and the maximum yearly amount shall be \$4,000, and the maximum amount that can be borrowed over four years shall be \$16,000.
- b) The interest rate for each loan shall be assigned at the time the original loan is made and shall remain fixed at that rate for all successive loans for that student.
- c) A student shall receive only one loan per calendar year up to a maximum of four years, but the four years need not be consecutive.
- d) Interest shall begin accruing and repayment of the loan shall begin six months after:
- 1) graduation,
 - 2) the student ceases to be a full-time student, or
 - 3) the expiration of the four years of eligibility, whichever comes first.

Payment of the principal, but not the interest, may be deferred if the individual continues his or ~~her~~ undergraduate program or enters graduate school.

- e) Repayment of the loan will follow a payment schedule as established by the Committee based on the ability to repay, employment and earnings. The maximum time period that will be allowed to repay a loan is ten years. The minimum monthly repayment is \$50.00.
- f) The loan may be paid off prior to the time it is due without penalty.
- g) The loan will be forgiven if the individual who received the loan dies or becomes further disabled in a way that permanently interferes with employment or the ability to repay. Repayment of the loan may be deferred if the individual incurs temporary disability that interferes with employment of the ability to repay until the temporary disability ceases.
- h) Legal or other collection action shall be taken against individuals judged by the Committee capable of making reasonable monthly payments based upon employment, earnings and other debts, but not making payments in accord with the loan agreement.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 835.50 Use of Funds

- a) Loan funds can only be used to pay tuition, fees, books, specialized educational equipment and room and board, and when approved by the Committee, costs of transportation and specific living expenses necessary for completion of the educational program.
- b) Loan funds will be sent directly to the institution of higher learning. If it is not possible to make direct payment to the institution, a receipt for expenses shall be required from the student before payment is issued. An advance of funds may be provided if the student can show financial hardship, need for the expense and a reasonable estimate of the cost.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Vocational Programs2) Code Citation: 89 Ill. Adm. Code 7803) Section Numbers:

780.10	Repealed
780.20	Repealed
780.30	Repealed
780.40	Repealed
780.50	Repealed
780.60	Repealed

4) Statutory Authority: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

5) A Complete Description of the Subjects and Issues involved: This Part is being repealed.

6) Will this proposed rule replace an emergency rule currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Repealer begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

TITLE 89: SOCIAL SERVICES

CHAPTER IV: DEPARTMENT OF HUMAN SERVICES

SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 780

VOCATIONAL PROGRAMS (REPEALED)

Section

- 780.10 Provision of Vocational Programs to Exceptional Students
- 780.20 Provision of Vocational Programs to Individual Students
- 780.30 Vocational Plan
- 780.40 Community Work Experiences
- 780.50 Supervision of Community Work Experiences
- 780.60 Coordination With Other Programs

AUTHORITY: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 18, 1982; codified at 6 Ill. Reg. 13794; amended at 12 Ill. Reg. 5456, effective March 8, 1988; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; repealed at 22 Ill. Reg. _____, effective _____.

Section 780.10 Provision of Vocational Programs to Exceptional Students

Vocational programs consisting of organized instructional experiences, and training experiences, shall be provided to exceptional students in accordance with their needs and as determined by the IEP.

Section 780.20 Provision of Vocational Programs to Individual Students

Provision of a vocational program to individual students shall be determined at a multidisciplinary conference.

Section 780.30 Vocational Plan

A vocational plan indicating specific vocational objectives, the training required, service personnel required, and the length of the proposed program shall be developed for each student determined to require a vocational program. This plan shall be developed in cooperation with the student and his or her parents, shall be adapted to the student's interests and aptitudes, and shall be incorporated into the IEP.

Section 780.40 Community Work Experiences

Community work experiences which are part of the student's vocational plan shall occur during the school day, unless this is precluded by the nature of

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

the experience.

Section 780.50 Supervision of Community Work Experiences

All community work experiences which are provided by the school as part of the vocational plan and for which the student receives educational credit shall be supervised by appropriate State School personnel.

Section 780.60 Coordination With Other Programs

Vocational programs serving exceptional students shall be coordinated with other programs of the Illinois Department of Rehabilitation Services, and with other public, private, and state agencies or organizations.

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

1) Heading of the Part: Annual Privilege Tax

2) Code Citation: 50 Ill. Adm. Code 2510

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2510.10	New Section
2510.20	New Section
2510.30	New Section
2510.40	New Section
2510.50	New Section
2510.60	New Section
2510.70	New Section
2510.80	New Section
2510.90	New Section
2510.100	New Section
2510.110	New Section
2510.120	New Section
2510.Illustration A	New Section
2510.Illustration B	New Section
2510.Illustration C	New Section
2510.Illustration D	New Section

4) Statutory Authority: Implementing Section 408 and authorized by Sections 401 and 409(5) of the Illinois Insurance Code [215 ILCS 5/401, 408 and 409(5)] (see P.A. 90-583, effective May 29, 1998).

5) A Complete Description of the Subjects and Issues Involved: This Part describes how the re-enacted privilege tax is to be calculated, specifies applicability, establishes the annual privilege tax return filing requirements and sets forth the payment schedule for the privilege tax. Additionally, this Part explains the penalties that may be assessed for failure to pay the privilege tax, or to make timely payments. In addition, this Part contains four illustrations: one demonstrating the calculation of the Annual Privilege Tax; an illustration on how a unitary group allocates its State corporate and replacement income taxes for the purposes of deducting from their privilege tax liability; a tax return and quarterly tax statement; and pages showing direct business in the State of Illinois.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rule contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rule will not require a

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Chuck Feinen Staff Attorney Department of Insurance 320 West Washington Springfield, Illinois 62767-0001 (217) 557-1396	Denise Hamilton Rules Unit Supervisor Department of Insurance 320 West Washington Springfield, Illinois 62767-0001 (217) 785-8560
--	--

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This new rule may affect all persons and businesses regulated by the Department.

B) Reporting, bookkeeping or other procedures required for compliance: Please see Sections 2510.50, 2510.60 and 2510.90.

C) Types of professional skills necessary for compliance: Clerical and accounting skills.

13) Regulatory Agenda on which this rule was summarized: July 1998

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ee: FEES, CHARGES AND TAXES

PART 2510
ANNUAL PRIVILEGE TAX

Section	Purpose
2510.10	Applicability
2510.20	Severability
2510.30	Definitions
2510.40	Calculation of Annual Privilege Tax Amount
2510.50	Deductions to Annual Privilege Tax Amount
2510.60	Payment Schedule for the Annual Privilege Tax
2510.70	Annual Privilege Tax Allocation in Merger, Consolidation, Reorganization, or Reincorporation
2510.80	Annual Privilege Tax Filing Requirements
2510.90	Waiver, Deferral, or Abatement of the Annual Privilege Tax
2510.100	Civil Penalties and Interest
2510.110	Hearings
2510.120	ILLUSTRATION A Calculation of the Annual Privilege Tax
	ILLUSTRATION B Unitary Group Allocation Calculation
	ILLUSTRATION C Annual Tax Return and Quarterly Tax Statement
	ILLUSTRATION D Direct Business in the State of Illinois (Property and Casualty)
AUTHORITY: Implementing Section 409 and authorized by Sections 401 and 409(5) of the Illinois Insurance Code [215 ILCS 5/401, 409 and 409(5)] (see P.A. 90-583, effective May 29, 1998).	
SOURCE:	Adopted at 22 Ill. Reg. _____, effective _____.

Section 2510.10 Purpose

This Part sets forth certain procedural requirements for the filing of the annual privilege tax, and explains the calculation of the annual privilege tax that is collected pursuant to Section 409(1) of the Code [215 ILCS 5/409(1)] (see P.A. 90-583, effective May 29, 1998).

Section 2510.20 Applicability

This Part applies to companies that write certain types of insurance in any calendar year. If a company writes one or a combination of any of the types of insurance listed in subsection (a) of this Section, an annual privilege tax is owed by that company pursuant to Section 2510.50 of this Part and Section 409(1) of the Code [215 ILCS 5/409(1)].

a) This Part applies to companies that write any of the following types

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

of premiums:

- 1) Premiums written by Health Maintenance Organizations as reported on Schedule T page 60, at line 14, column 4 in the 1998 Annual Statement, as hereafter amended, filed with the Department pursuant to Section 2.7 of the Health Maintenance Organization Act [215 ILCS 125/2.7];
 - 2) Premiums written for accident and health insurance as reported by Life Insurance Companies on page 21, at line 25, column 2, minus line 23.1, column 2, and for Property and Casualty Insurance Companies on page 15, at lines 13, 14, 15.1, 15.2, 15.3, 15.4, 15.5 and 15.6, column 2, of the 1998 Annual Statement, as hereafter amended, filed with the Department pursuant to Section 136 of the Code [215 ILCS 5/136];
 - 3) Premiums written by Voluntary Health Service plans as reported on Schedule T page 56, at line 14, column 4, of the 1998 Annual Statement, as hereafter amended, filed with the Department pursuant to Section 2007 of the Limited Health Service Organization Act [215 ILCS 130/2007];
 - 4) Premiums written by Dental Service plans as reported on page 7, at line 4, column 1, in the 1998 Annual Statement, as hereafter amended, filed with the Department pursuant to Section 36 of the Dental Service Plan Act [215 ILCS 110/36];
 - 5) Premiums written by Limited Health Service Organizations as reported on Schedule T page 56, at line 14, column 4, in the 1998 Annual Statement, as hereafter amended, filed with the Department pursuant to Section 2007 of the Limited Health Service Organization Act [215 ILCS 130/2007];
 - 6) Premiums written by Risk Retention Groups as reported on page 15, at line 32 or 31, column 2, whichever is greater, as hereafter amended, on the 1998 Annual Statement filed with the Department pursuant to Section 136 of the Code [215 ILCS 5/136] minus premiums specifically exempted by subsection (b) of this Section or Section 409 of the Code [215 ILCS 5/409];
 - 7) Premiums written for all other types of insurance as reported by Life Insurance Companies on page 21, at line 1, column 6, and by Property and Casualty Insurance Companies on page 15, at line 32, column 2, of the 1998 Annual Statement, as hereafter amended, filed with the Department pursuant to Section 136 of the Code [215 ILCS 5/136] minus premiums specifically exempted by subsection (b) of this Section or Section 409 of the Code [215 ILCS 5/409].
- b) There is no annual privilege tax owed for premiums written by the listed entities or on the types of premiums written as follows:
- 1) All Fraternal Benefit Societies;
 - 2) All Farm Mutual companies;
 - 3) All Religious and Charitable Risk Pooling Trusts;
 - 4) All coverage written by an Illinois statutory residual market entity;

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

care coverage for Medicaid eligible insureds as described in Section 5-2 of the Illinois Public Aid Code [305 ILCS 5/5-2], premiums paid for health care services included as an element of tuition charges at any university or college owned and operated by the State of Illinois, premiums on group insurance contracts under the State Employees Group Insurance Act of 1971, and premiums for deferred compensation plans for employees of the State, units of local government or school districts [215 ILCS 5/409(1)].

Net Taxable Premium Written means the gross taxable premium written reduced only by the following:

The amount of premiums returned thereon which shall be limited to premiums returned during the same preceding calendar year and shall not include the return of cash surrender values or death benefits on life policies; and

Dividends on such direct business that have been paid in cash, applied in reduction of premiums or left to accumulate to the credit of policyholders. In the case of life insurance, no deduction shall be made for the payment of deferred dividends paid in cash to policyholders on maturing policies; dividends left to accumulate to the credit of policyholders or annuitants shall be included as gross taxable premium written when such dividend accumulations are applied to purchase paid-up insurance or to shorten the endowment or premium paying period [215 ILCS 5/409(1)].

Premium Written or Premium Received means any amount which is accounted for as direct premium and reported in the Annual Statement filed with the Department referenced in Section 2510.20 of this Part, or any amount which is otherwise accounted for as a direct premium by Illinois Fair Plan or surplus line producer.

Replacement Income Tax means the income tax assessed against corporations pursuant to Section 201(c) and (d) of the Illinois Income Tax Act [35 ILCS 5/201(c) and (d)].

Unitary Group means a unitary business group as defined by Section 1501 of the Illinois Income Tax Act [35 ILCS 5/1501] to be a group of persons related through common ownership whose business activities are integrated with, dependent upon and contribute to each other.

Section 2510.50 Calculation of Annual Privilege Tax Amount

- a) An annual privilege tax will be assessed on companies by the types of premium written pursuant to Section 409(1) of the Code [215 ILCS 5/409(1)] in accordance with following schedule:

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

- 5) Assessment Legal Reserve Life companies;
- 6) All Burial Societies;
- 7) All Self-Insurers;
- 8) All Mutual Benefit Associations;
- 9) All Group Workers' Compensation Self-Insurance Pooling Trusts;
- 10) Illinois Insurance Exchange (INEX Insurance Exchange);
- 11) Risk Purchasing Groups;
- 12) All Industrial captive insurance companies;
- 13) All Pure captive insurance companies;
- 14) All Association captive insurance companies; and
- 15) All Domestic Surplus Line Insurers.

Section 2510.30 Severability

If any Section, subsection, paragraph, sentence, clause, or phrase of this Part is declared invalid for any reason, the remaining portions of this Part that are severable from the invalid portion shall remain in full force and effect. If a part of this Part is declared invalid in one or more of its applications, the remaining portion shall be severable and in effect in all valid applications.

Section 2510.40 Definitions

Except as stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part which are not defined below, shall be the same as those used in 50 Ill. Adm. Code 2500.40 or the Illinois Insurance Code [215 ILCS 5].

Aggregate Income Taxes Paid means the actual corporate and replacement income tax cash payment made in any calendar year or taxing period pursuant to Section 201(a) through (d) of the Illinois Income Tax Act [35 ILCS 5/201(a) through (d)] and does not mean the total liability owed for any calendar year or taxing period.

Corporate Income Tax means the income tax assessed against corporations pursuant to Section 201(b) of the Illinois Income Tax Act [35 ILCS 5/201(b)].

Fire Department Tax means the tax pursuant to Section 11-10-1 of the Illinois Municipal Code [65 ILCS 5/11-10-1] collected by local governments and does not mean the State Fire Marshal Tax discussed in 50 Ill. Adm. Code 2520.

Gross Taxable Premium Written means the gross amount of premiums written and as filed and reported in the company's Annual Statement during the calendar year on contracts covering risks in this State, except premiums on annuities, premiums on which State premium taxes are prohibited by federal law, premiums paid by the State for health

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

- 1) As of January 1, 1998, 0.5% of the net taxable premiums written on all insurance premiums which are not exempted pursuant to Section 2510.20(b) of this Part or assessed a different rate pursuant to the schedule set forth in subsection (a)(2) or (3) of this Section;
- 2) Starting on July 1, 1998, and thereafter, 0.4% of net taxable premiums written by or on all accident and health, voluntary health service plan, dental service plan, or limited health service organization businesses. For the calendar year 1998 annual privilege tax, companies shall calculate the net taxable premiums written only on the net taxable premiums written after July 1, 1998 and provide additional documentation such as quarterly statements to verify such net taxable premiums written. For calendar year 1999, and thereafter, the companies shall calculate the net taxable premiums written for the whole year and are only required to provide the information required in Section 2510.90 of this Part; and
- 3) Starting January 1, 1999, and thereafter, 0.4% of the net taxable premiums written by all health maintenance organizations.
- b) Companies should total the annual privilege tax owed pursuant to the different types of premiums written and then deduct any allowable amount, as set forth in Section 2510.60 of this Part, to arrive at the annual privilege tax owed. An example of this calculation is set forth in Illustration A of this Part which includes examples for the different types of companies.

Section 2510.60 Deductions to Annual Privilege Tax Amount

- a) The total annual privilege tax due from a company shall be reduced, pursuant to Section 409(2) of the Code [215 ILCS 5/409(2)], as follows:
 - 1) By the amount of any fire department taxes paid by the company during the preceding calendar year under Section 11-10-1 of the Illinois Municipal Code [65 ILCS 5/11-10-1]; and
 - 2) By any excess amount, on the annual privilege tax due date, that the company's aggregate income taxes paid on a cash basis in the preceding calendar year (January 1 through December 31) under Section 201 (a) through (d) of the Illinois Income Tax Act [35 ILCS 5/201(a)-(d)] exceed 1.5% of the company's net taxable premium written.
 - A) A company's aggregate income taxes paid shall be the total of the corporate and replacement income tax paid in the calendar year.
 - B) The aggregate income taxes paid shall be reduced by any income tax cash refunds received in that same calendar year if that cash refund had been considered part of the aggregate income taxes paid for an offset calculation in subsection (a)(2) of this Section taken in a preceding

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

- calendar year. If no deduction was taken pursuant to subsection (a)(2) of this Section (in which the tax cash refund received was part of the aggregate income taxes paid used in determining the calculation pursuant to subsection (a)(2) of this Section) then the aggregate income taxes paid for the calendar year in which that tax cash refund is received shall not be reduced by that tax cash refund amount.
- b) If the company is part of a state income tax Unitary group, to determine each company's state income tax offset pursuant to subsection (a)(2) of this Section, an allocation of the aggregate income taxes described in subsection (a)(2) of this Section must be completed pursuant to the following:
 - 1) The allocation of the aggregate income taxes paid for the unitary group will be based on each individual company's Illinois premium written, including annuities, as reported in each company's Annual Statement as a percentage of the Unitary group's total premium written. Each company's determination of the aggregate income taxes paid is the allocation percent multiplied by the Unitary group's amount of the corporate and replacement income taxes paid in the calendar year, less the Unitary group's cash refunds multiplied by that company's allocation percentage. Illustration B is an example of this calculation.
 - 2) Each company may only use its allocated portion for the determination of the income tax deduction and may not transfer any allocated aggregate income taxes to another company or carry forward to another year.
 - c) Any deductible amount or offset allowed to be taken and which is not used or is taken pursuant to subsections (a)(1) and (a)(2) of this Section for any calendar year will not be allowed as a deduction or offset against the company's annual privilege tax for any other taxing period or calendar year.

Section 2510.70 Payment Schedule for the Annual Privilege Tax

- a) In the year 1999 and thereafter, all companies, other than health maintenance organizations, shall make annual and quarterly installments of their estimated annual privilege tax as follows:
 - 1) All companies shall make an annual return for the preceding calendar year on or before March 15; and
 - 2) Payments of quarterly installments of the company's total estimated privilege tax for the current calendar year shall be due on or before April 15, June 15, September 15 and December 15 of such year in the amount of at least 1/4 of either the total tax paid during the previous calendar year or 80% of the tax due to be paid for the current calendar year. However, those companies whose annual privilege tax for the immediately preceding calendar year is less than \$5,000 shall only be

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

required to file an annual statement pursuant to subsection (a)(1) of this Section.

- b) Health maintenance organizations, starting in the year 2000 and thereafter, shall make an annual return for the 1999 calendar year on or before March 15, but are not required to file quarterly statements for the calendar year 1999. Starting in the year 2000 and thereafter, in addition to an annual return filed on or before March 15, health maintenance organizations shall make payments of quarterly installments of the total estimated privilege tax for the current calendar year and shall be due on or before April 15, June 15, September 15 and December 15 of such year in the amount of at least 1/4 of either the total tax paid during the previous calendar year or 80% of the tax due to be paid for the current calendar year. However, those health maintenance organizations whose annual privilege tax for the immediately preceding calendar year is less than \$5,000 shall only be required to file an annual statement.

- c) Payment of such annual returns and quarterly statements shall include such information as prescribed in Illustration C and Section 2510.90 of this Part and be made pursuant to 50 Ill. Adm. Code 2500.70(b).

- d) Failure to file a return, even if no tax is owed, or to file quarterly statements, if required, or to make a payment, will subject the company to penalties pursuant to Section 2510.110 of this Part.

Section 2510.80 Annual Privilege Tax Allocation in Merger, Consolidation, Reorganization, or Reincorporation

When a company survives or was formed by a merger, consolidation, reorganization or reincorporation, the premiums written or received, and amounts returned or paid by all companies party to such merger, consolidation, reorganization or reincorporation shall, for purposes of determining the amount of the annual privilege tax imposed by Section 409 of the Code, be regarded as written, received, returned or paid by such surviving or new company [215 ILCS 5/409(3)]. No tax deduction, credit, or offset shall be transferred as a result of a merger, consolidation, reorganization or reincorporation if the company who holds the tax deduction, credit, or offset still exists after the merger, consolidation, reorganization or reincorporation. Additionally, no tax deduction, credit, or offset shall be considered transferred or owned by another tax payer simply as the result of an assumption reinsurance agreement or as a result of a restructuring of a company or companies.

Section 2510.90 Annual Privilege Tax Filing Requirements

Each company required to file an annual privilege tax return pursuant to this Part must file their annual return, even if no tax is owed, with the following information:

- a) The applicable information set forth in the privilege retaliatory tax return as sent by the Department and as shown in Illustration C of this Part;

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

- b) Proof of payment of all privilege tax deductions taken, such as copies of canceled checks;
- c) If filing as part of a Unitary group the Department's Unitary Schedule must be completed and attached; and
- d) The applicable premium information as set forth in Illustration D of this Part which are blank copies of the Direct Business pages filed with the annual statement as established by the National Association of Insurance Commissioners.

Section 2510.100 Waiver, Deferment, or Abatement of the Annual Privilege Tax

Upon a written request from the company or by the Director's own decision, the Director may, pursuant to Section 409(5) of the Code [215 ILCS 5/409(5)], determine in his opinion the company's solvency and ability to meet its insured obligations would be immediately threatened by payment of the annual privilege tax due and defer, waive or abate the annual privilege tax. Such written request from the company shall contain all financial information necessary for the Director to make his determination.

Section 2510.110 Civil Penalties and Interest

Failure of a company to file the annual tax return, even if no tax is owed, to make the annual privilege tax payment, or to make the quarterly payments, if required, of at least 1/4 of either the total tax paid during the previous calendar year or 80% of the tax due to be paid for the current calendar year shall subject it to the penalty provisions set forth in Section 412 of the Code [215 ILCS 5/412] and as assessed pursuant to 50 Ill. Adm. Code 2525.100(a).

Section 2510.120 Hearings

Any person or company required to pay an annual privilege tax pursuant to this Part may request a hearing to be held for the purposes of determining if the assessed tax is appropriate. A request for hearing shall be made pursuant to the grounds set forth in Section 412 of the Code [215 ILCS 5/412], a mistake of fact, an error in calculation or an erroneous interpretation of a statute of this or any other state, and such request will only be granted based on those grounds. The hearing request shall be made pursuant to 50 Ill. Adm. Code 2500.50.

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

Section 2510. ILLUSTRATION A Calculation of the Annual Privilege Tax

Property and Casualty Insurance Companies			
Privilege Tax Calculation	1 Premium	2 Premium Rate	3 Premium Tax
1. Property and Casualty Insurance Premiums (Page 15, Column 2, Line 32, except Lines 13 thru 15.6)			
a. Add finance and service charges per Page 15 of the Annual Statement			
2. Total Property & Casualty Premiums			
3. DEDUCTIONS			
a. Dividends Paid or Credited to Policyholders (P. 15, Col. 4)			
b. Total Deductions			
4. NET TAXABLE PROPERTY & CASUALTY PREMIUMS & TAX (Col. 1, Line 2 minus 3b) (Col. 1, Line 4 x Col. 2, Line 4)		005	
5. Accident and Health Premiums (Page 15, Column 2, Lines 13 thru 15.6) (July 1 thru December 31)			
6. DEDUCTIONS			
a. Dividends Paid or Credited to Policyholders (P. 15, Col. 4)			
b. Total Deductions			
7. NET TAXABLE ACCIDENT AND HEALTH PREMIUMS & TAX (Column 1, Line 5 minus 6b) (Col. 1, Line 7 x Col. 2, Line 7)		004	
8. Net Premium Tax Before Credits (Column 3, Line 4 plus Line 7)			
Less Credits to the Premium Tax			
9. FIRE DEPARTMENT TAXES PAID			
9a. Fire Department Taxes paid to Illinois Municipal League			
9b. Fire Department Taxes-Other (Proof of Payment)			
9c. Total Fire Department Taxes (Col. 1, Lines 9a plus 9b)			
CORPORATE & REPLACEMENT INCOME TAX INTERGRADATION EXCESS			
Complete Lines 10 thru 11 if Corporate and Replacement Income Tax not paid on a Unitary Method. If paid on a Unitary Method, go to U-1 Schedule and complete as directed			
10. ILLINOIS CORPORATE INCOME TAX PAYMENTS			
10a. 1997 Final Payment			
10b. 1998 Total Quarterly Payments			
10c. Other Payments paid during Calendar Year 1998			
10d. Less: State Income Tax Cash Refunds Received			
10e. TOTAL			
11. ILLINOIS PERSONAL PROPERTY REPLACEMENT CORPORATE INCOME TAX PAYMENTS			
11a. 1997 Final Payment			
11b. 1998 Total Quarterly Payments			
11c. Other Payments paid during Calendar Year 1998			
11d. Less: Replacement State Income Tax Cash Refunds Received			
11e. TOTAL			
12. TOTAL NET INCOME TAXES (10e plus 11e)			
13. Total Property and Casualty Premium & Accident and Health Premium (Col. 1, Line 4 plus Col. 1, Line 7)			
14. Integration Offset is excess of 1.5% Net Taxable Premium (Line 13 x 1.5)			
15. Integration Offset Amount (Line 12 minus Line 14) If negative, put zero			
16. NET PREMIUM TAX (Line 8 less Line 9c less Line 15)			

Life and Accident and Health Insurance Companies			
Privilege Tax Calculation	1 Premium	2 Premium Rate	3 Premium Tax
1. Life Insurance Premiums (Page 21, Column 6, Line 1 per Annual Statement)			
2. DEDUCTIONS			
a. Dividends Paid in Cash			
b. Dividends Applied in Reduction of Premiums			
c. Return Premiums			
d. Total Deductions			
3. NET TAXABLE DIRECT LIFE PREMIUMS & TAX (Column 1, Line 1 minus 2d) x (Column 2, Line 3)		005	
4. Accident and Health Premiums (Page 21, Column 2, Line 25 minus Line 23.1 per Annual Statement)			
5. DEDUCTIONS			
a. Dividends Paid in Cash or Credited to Policyholders			
b. Total Deductions			
6. NET TAXABLE ACCIDENT AND HEALTH PREMIUMS & TAX (Column 1, Line 4 minus 5b) (July 1 thru December 31)		004	
7. Net Premium Tax before Credits (Column 3, Line 3 plus Column 3, Line 6)			
Less Credits to the Premium Tax			
CORPORATE & REPLACEMENT INCOME TAX INTERGRADATION EXCESS			
Complete Lines 9 thru 11 if Corporate and Replacement Income Tax not paid on a Unitary Method. If paid on a Unitary Method, go to U-1 Schedule and complete as directed			
8. ILLINOIS CORPORATE INCOME TAX PAYMENTS			
8a. 1997 Final Payment			
8b. 1998 Total Quarterly Payments			
8c. Other Payments paid during Calendar Year 1998			
8d. Less: State Income Tax Cash Refunds Received			
8e. TOTAL			
9. ILLINOIS PERSONAL PROPERTY REPLACEMENT CORPORATE INCOME TAX PAYMENTS			
9a. 1997 Final Payment			
9b. 1998 Total Quarterly Payments			
9c. Other Payments paid during Calendar Year 1998			
9d. Less: Replacement State Income Tax Cash Refunds Received			
9e. TOTAL			
10. TOTAL NET INCOME TAXES (Lines 8e + 9e)			
11. Total Life Insurance Premium & Accident and Health Premium (Column 1, Line 3 plus Column 1, Line 6)			
12. Integration Offset is excess of 1.5% Net Taxable Premium (Line 11 x 1.5%)			
13. Integration Offset Amount (Line 10 minus Line 12) If negative, put zero			
14. NET PREMIUM TAX (Line 7 less Line 10c less Line 13)			

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

Section 2510. ILLUSTRATION A Calculation of the Annual Privilege Tax

Privilege Tax Calculation		1 Premium	2 Premium Rate	3 Premium Tax
1. ACCIDENT AND HEALTH PREMIUMS				
2. DEDUCTIONS				
2a. Dividends Paid in Cash				
2b. Dividends Applied in Reduction of Premiums				
2c. Return Premiums				
2d. Total Deductions				
3. NET TAXABLE ACCIDENT & HEALTH PREMIUMS (Column 1, Line 1 minus 2d)				
Less Credits to the Premium Tax				
CORPORATE & REPLACEMENT INCOME TAX INTERGRADATION EXCESS Complete Lines 4 thru 7 of Corporate and Replacement Income Tax not paid on a Unitary Method. If paid on a Unitary Method, go to U-1, Schedule and complete as directed				
4. ILLINOIS CORPORATE INCOME TAX PAYMENTS				
4a. 1997 Final Payment				
4b. 1998 Total Quarterly Payments				
4c. Other Payments paid During Calendar Year 1998				
4d. Less: State Income Tax Cash Refunds Received				
4e. TOTAL				
5. ILLINOIS PERSONAL PROPERTY REPLACEMENT CORPORATE INCOME TAX PAYMENTS				
5a. 1997 Final Payment				
5b. 1998 Total Quarterly Payments				
5c. Other Payments paid During Calendar Year 1998				
5d. Less: Replacement State Income Tax Cash Refunds Received				
5e. TOTAL				
6. TOTAL NET INCOME TAXES (Lines 4e + 5e, Column 1)				
7. Intergradation Offset is excess of 1.5% Net Taxable Premium (Line 3 of Column 3)				
8. NET TAXABLE PREMIUM (Line 3 Column 3) LESS INTERGRADATION OFFSET (Line 7, Column 3)				

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

Section ILLUSTRATION B Unitary Group Allocation Calculation

Income Tax Offset Based on Unitary Method of Corporate and Replacement Tax Allocated by each Company's Illinois Premium Written (including annuities) to the Unitary Group's Total Illinois Premium Written (Schedule U-1)							
Identity		Payment			Refund		Results
1 Company Name of Each Unitary Member	2 Company FEIN	3 Illinois Direct Premium	4 Percentage Allocation	5 Tax Offset Allocation Percentage	6 Refund Offset Allocation by %	7 Allowed	
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15	Column Totals						

Taxes Paid By (Name of Company and the FEIN of Taxpayer)

Total Taxes Paid

Total Refund Issued

Net Available for Offset
(This amount will be verified per the Department of Revenue records.)

Procedure to Determine the Income Tax Offset on the Unitary Method

We will use Schedule U-1 to determine the income tax offset for companies using the Unitary Method. The allocation of the total income tax paid will be based on the Illinois premium written (including annuities) by each individual company as a percent of the Unitary group total. This allocation is multiplied to the unitary calendar year amount paid and the result is the available income tax offset for that individual company. If the unitary group received a refund during the calendar year, the refund must also be allocated among the individual companies. If a member of the unitary group received a refund during the calendar year, the refund must be allocated among all members of the unitary group. Only the net amount is allowed. Each unitary group must complete Schedule U-1 to be allowed the offset. Any unitary group that does not complete Schedule U-1 will not be allowed to use the Illinois Corporate and Replacement Income Taxes in the calculation of the privilege and relational taxes.

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

Section ILLUSTRATION C Annual Tax Return and Quarterly Tax Statement



State of Illinois
1998 Privilege and Retaliatory Tax Statement for Property and Casualty Insurers
Business during the Calendar Year 1998
Illinois Department of Insurance
320 West Washington Street
Springfield, IL 62767-0001

Federal Employer Identification Number: _____ NAIC _____	
Name of Insured Company _____	
with principal office located at _____ Street and Number _____ City _____ State _____ Zip Code _____	as required by and in accordance with "215 ILCS 5/410" of the Illinois Compiled Statutes
Mailing address, if other than principal office location shown above _____	
Contact person _____	Phone () _____

Instructions

Important Notice: The FEIN must be on this statement to ensure proper posting to your company account. The Privilege and Retaliatory Tax Statement must be filed and the taxes due must be paid on or before March 15, 1998. The official filing date is the U.S. Postal date.

1. The Department of Insurance cannot issue cash refunds of overpayments. Overpayments should be applied to all future privilege and retaliatory tax liabilities only.
2. No authority exists for granting any extension of time for filing or payment.
3. The payment received will be subject to audit and subsequent adjustments if necessary.
4. Any penalties to be levied will be assessed as provided by "215 ILCS 5/412" of the Illinois Compiled Statutes.
5. File only one original notarized copy. The Illinois Department of Insurance will not accept computerized, fax or any facsimile tax statements. Companies must use the prescribed form furnished by the Department. Failure to do so will subject your company to penalties per "215 ILCS 5/412" of the Illinois Compiled Statutes.
6. Remittance should be made payable to the Director of Insurance and mailed with the completed tax statement to attention: Tax and Fiscal Services Section, Illinois Department of Insurance, 320 West Washington Street, Springfield, Illinois 62767-0001.

Do not mail checks or forms with the Annual Statement

Important Notice: Disclosure of this information is required under the Illinois Revised Statutes' Insurance Laws. Failure to provide this information will result in a fine. This form has been approved by the Forms Management Center.

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

NAIC Group Code	NAIC Company Code	Line of Business	Gross Premiums Including Policy and Reinsurance Premiums on Policies Not Taken	Direct Premiums Written	Direct Premiums Earned	Outflows Paid or Credited to Policyholders on Direct Business
1		Fire				
2.1		Automobile				
2.2		Multiple perils crop				
2.3		Federal flood				
3		Farmowners multiple peril				
4		Homeowners multiple peril				
5.1		Commercial multiple peril (multiple peril)				
5.2		Commercial multiple peril (liability portion)				
6		Marine				
8		Ocean marine				
9		Inland marine				
10		Financial guaranty				
11		Medical malpractice				
12		Earthquake				
13		Group accident and health				
14		Credit A & H (Group and Individual)				
15.1		Collectively renewable A & H				
15.2		Non-cancelable A & H				
15.3		Guaranteed renewable A & H				
15.4		Non-renewable for stated reasons only				
15.5		Other accident only				
15.6		All other A & H				
15.7		Federal employees health benefits program premium				
16		Workers' compensation				
17		Other liability				
18		Products liability				
19.1		Private passenger auto no-fault (personal injury protection)				
19.2		Other private passenger auto liability				
19.3		Commercial auto no-fault (personal injury protection)				
19.4		Other commercial auto liability				
21.1		Private passenger auto physical damage				
21.2		Commercial auto physical damage				
22		Aircraft (all perils)				
23		Firefly				
24		Surety				
26		Burglary and theft				
27		Boiler and Machinery				
28		Credit				
31		Aggregate write-ups for other lines of business				
32		Variable				

32a Finance and service charges not included in Lines 1 to 32 \$ _____

Amounts Must Agree to Direct Business Page of Company's Annual Statement.

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

Computation of Retaliatory Taxes

Under "215 ILCS 5/444 and 5/444.1" of the Illinois Compiled Statutes when the laws of any other state require of companies domiciled in Illinois the payment of penalties, fees, charges or taxes greater than those required in the aggregate for like purposes under the laws of Illinois by companies domiciled in such states, the Director of Insurance is required to impose comparable requirements on a retaliatory basis. All insurance related taxes and fees, including premium taxes, based on the State of Incorporation requirements, should be calculated below with the total carried forward to Page 6, Line 2 under Column 2. New York domiciled companies must file and pay a tentative retaliatory tax to Illinois by the due date (March 15 of each year). An amended return must be filed 30 days after the actual CT33 and CT33-M is filed with New York. Companies domiciled in other states must include with their return a copy of the State of Incorporation tax form using Illinois business.

Retaliatory Tax Calculation	Column 1 State of Illinois Basis	Column 2 State of Incorporation Basis
1. Annual Statement Filing Fee	\$100.00	
2. Certificate of Authority Fee	\$100.00	
3. Fire Marshal Tax		
4. Fire Department Tax (proof of payment must be attached)		
5. Financial Regulation Fee		
6. Policy Form Filing Fee		
*7a. Corporate & Replacement Income Taxes Paid		
7b. Illinois Life & Health Guaranty Fund Credit (per Association's official notice)		XXXXXXXXXXXX
7c. Other State of Illinois Taxes and Fees per Article XXV	XXXXXXXXXXXXXX	
7d. Other State of Incorporation Taxes and Fees		
8. Premium Tax, Franchise Tax, etc.		
9. Total Illinois Basis	XXXXXXXXXXXXXX	XXXXXXXXXXXXXX
10. Total State of Incorporation Basis		
11. Total Retaliatory Tax Due (enter difference between Columns (1) and (2) if Column 2 exceeds Column 1. Otherwise enter "0". Balance cannot be less than 0.		XXXXXXXXXXXXXX

*If Illinois Corporate and Replacement income taxes are paid on a unitary method, please complete Schedule U-1 in detail. Proof of Payment (cancelled checks and IL-1120) must be attached to verify basis.

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

Property and Casualty Insurance Companies		
Privilege Tax Calculation	1 Premium	2 Premium Rate
1. Property and Casualty Insurance Premiums (Page 15, Column 2, Line 32 except Lines 13 thru 15, 6)		
a. Add finance and service charges per Page 15 of the Actual Statement		
2. Total Property & Casualty Premiums		
3. DEDUCTIONS		
a. Outdolls Paid or Credited to Policyholders (P. 15, Col. 4)		005
b. Total Deductions		
4. NET TAXABLE PROPERTY & CASUALTY PREMIUMS & TAX (Col. 1, Line 2 minus 3b) (Col. 1, Line 4 + Col. 2, Line 4)		
5. Accident and Health Premiums (Page 15, Column 2, Lines 13 thru 15, 6) (July 1 thru December 31)		
6. DEDUCTIONS		
a. Outdolls Paid or Credited to Policyholders (P. 15, Col. 4)		
b. Total Deductions		
7. NET TAXABLE ACCIDENT AND HEALTH PREMIUMS & TAX (Column 1, Line 5 minus 6b) (Col. 1, Line 7 + Col. 2, Line 7)		004
8. Net Premium Tax Before Credits (Column 3, Line 4 plus Line 7)		
Less Credits to the Premium Tax		
9. FIRE DEPARTMENT TAXES PAID		
9a. Fire Department Taxes paid to Illinois Municipal League		
9b. Fire Department Taxes-Other (Proof of Payment)		
9c. Total Fire Department Taxes (Col. 1, Lines 9a plus 9b)		
10. CORPORATE & REPLACEMENT INCOME TAX INTERGRADATION EXCESS		
Complete Lines 10 thru 11 if Corporate and Replacement Income Tax not paid on a Unitary Method. If paid on a Unitary Method, go to U-1 Schedule and complete as directed.		
10. ILLINOIS CORPORATE INCOME TAX PAYMENTS		
10a. 1987 Final Payment		
10b. 1998 Total Quarterly Payments		
10c. Other Payments paid during Calendar Year 1998		
10d. Less: State Income Tax Cash Refunds Received		
10e. TOTAL		
11. ILLINOIS PERSONAL PROPERTY REPLACEMENT CORPORATE INCOME TAX PAYMENTS		
11a. 1987 Final Payment		
11b. 1998 Total Quarterly Payments		
11c. Other Payments paid during Calendar Year 1998		
11d. Less: Replacement State Income Tax Cash Refunds Received		
11e. TOTAL		
12. TOTAL NET INCOME TAXES (10e plus 11e)		
13. Total Property and Casualty Premium & Accident and Health Premium (Col. 1, Line 4 plus Col. 1, Line 7)		
14. Integration Offset is excess of 1.5% Net Taxable Premium (Line 13 x 1.5)		
15. Integration Offset Amount (Line 12 minus Line 14) If negative, put zero.		
16. NET PREMIUM TAX (Line 8 less Line 9e less Line 15)		

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Income Tax Offset Based on Unitary Method of Corporate and Replacement Tax						
Allocated by each Company's Illinois Premium Written (including annuities)						
to the Unitary Group's Total Illinois Premium Written (Schedule U-1)						
Identity		Payment			Results	
1	2	3	4	5	6	7
Company Name of Each Unitary Member	Company FEIN	Illinois Direct Premium	Percentage Allocation	Tax Offset Allocated by Percentage	Refund Offset Allocation by %	Allowed
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15	Column Totals					

Taxes Paid By (Name of Company and the FEIN of Taxpayer) _____

Total Taxes Paid _____

Total Refund Issued _____

Net Available for Offset _____

(This amount will be verified per the Department of Revenue records.)

Procedure to Determine the Income Tax Offset on the Unitary Method

We will use Schedule U-1 to determine the income tax offset for companies using the Unitary Method. The allocation of the total income tax paid will be based on the Illinois premium written (including annuities) by each individual company as a percent of the Unitary group total. This allocation is multiplied to the unitary calendar year amount paid and the result is the available income tax offset for that individual company. If a member of the unitary group received a refund during the calendar year, the refund must also be allocated among the individual companies. If a member of the unitary group received a refund during the calendar year, the refund must also be allocated among all members of the unitary group. Only the net amount is allowed.

Each unitary group must complete Schedule U-1 to be allowed the offset. Any unitary group that does not complete Schedule U-1 will not be allowed to use the Illinois Corporate and Replacement income taxes in the calculation of the privilege and retaliatory taxes.

Payment Summary	Column 1	Column 2
1 Amount due as Privilege Tax (Line 16, Page 3)		
2 Amount due as Retaliatory Tax (Line 11, Page 4)		
3 Total Privilege and Retaliatory Tax (Line 1 plus 2)		
4 LESS PRIVILEGE TAX ESTIMATED INSTALLMENTS		
4a April 15, 1998	XXXXXXXXXXXXXXX	
4b June 15, 1998		
4c September 15, 1998		
4d December 15, 1998		
4e Total (Add 4a thru 4d)		
5 LESS RETALIATORY TAX QUARTERLY ESTIMATES		
5a April 15, 1998		
5b June 15, 1998		
5c September 15, 1998		
5d December 15, 1998		
5e Total (Add 5a thru 5d)		
6 TOTAL ESTIMATED PAYMENTS (Lines 4e plus 5e)		
7 LESS PRIOR YEAR END OVERPAYMENT (as reported on prior year tax return)		
8 TOTAL CREDITS (Line 6 plus line 7)		
9 BALANCE DUE (Line 3 less Line 8)		
10 Failure to file tax return penalty (\$200 per month or 5% of tax, whichever is greater)		
11 Failure to pay tax penalty (5% of tax due)		
12 Interest on the tax paid after due date per IRS rate, minimum 12%		
13 Total remittance with tax return (Lines 9, 10, 11 and 12)		
14 TAX OVERPAYMENT		

*Calculate per 215 ILCS 5/412 of the Illinois Compiled Statutes.

**All overpayments must be applied to future privilege or retaliatory tax liabilities only.

State of _____

OATH

Notary Public (Signature)

County of _____

Name: _____

(Signature of Corporate Officer)

Title: _____

of the _____

(Company)

declares under penalties of perjury that the foregoing Statement (including the accompanying schedules) has been examined by him, and to the best of his knowledge and belief is true, correct and complete.

Subscribed and sworn to before me this _____ day of _____, 19____

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Section 2510. ILLUSTRATION C Annual Privilege Tax Return and Quarterly Tax Statement

Illinois Department of Insurance
320 W. Washington Street
Springfield, IL 62762-0001

State of Illinois
1998 Privilege and Retaliatory Tax Statement for Life and Accident and Health Companies

Business during the Calendar Year 1998



Federal Employer Identification Number: _____ NAIC _____

Name of Insurance Company _____

with principal office located at: _____ Street and Number _____ City _____ State _____ Zip Code _____ as required by and in incorporated under the laws of the State of _____

accordance with "215 ILCS 5/410" of the Illinois Compiled Statutes.

Mailing address, if other than principal office location shown above _____

Contact person _____ Phone () _____

Instructions

- Important Notice:** The FEIN must be on this statement to ensure proper posting to your company account.
- The Privilege and Retaliatory Tax Statement must be filed and the taxes due must be paid on or before March 15, 1998. The official filing date is the U.S. Postal date.
 - Separate checks and statement is requested for each company of an insurance group.
 - The Department of Insurance cannot issue cash refunds of overpayments. Overpayments should be applied to all future privilege and retaliatory tax liabilities only.
 - No authority exists for granting any extension of time for filing or payment.
 - The payment received will be subject to audit and subsequent adjustments if necessary.
 - Any penalties to be levied will be assessed as provided by "215 ILCS 5/412" Illinois Compiled Statutes.
 - File only one original notarized copy. The Illinois Department of Insurance will not accept computerized, fax or any facsimile tax statements. Companies must use the prescribed form furnished by the Department. Failure to do so will subject your company to penalties per "215 ILCS 5/412" of the Illinois Compiled Statutes.
 - Remittance should be made payable to the **Director of Insurance** and mailed with the completed tax statement to attention: Tax and Fiscal Services Section, Illinois Department of Insurance, 320 West Washington Street, Springfield, Illinois 62767-0001.

Do not mail checks or forms with the Annual Statement

Important Notice: Disclosure of this information is required under the Illinois Revised Statutes' Insurance Laws. Failure to provide this information will result in a fine. This form has been approved by the Forms Management Center.

ILL-446-0126-L

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Direct Business in the State of Illinois During the Year 1998

Life Insurance

NAIC Group Code	NAIC Company Code	1	2	3	4	5	6
		Direct Premiums and Annuity Considerations	Ordinary	Group and Individual	Group	Industrial	Total
1		Life Insurance					
2		Annuity Considerations					
3		Deposit-type funds					
4		Totals (sum of Lines 1 to 3)					
Direct Dividends to Policyholders							
Life Insurance:							
5.1		Paid in cash or left on deposit					
5.2		Applied to pay renewal premiums					
5.3		Applied to provide paid-up additions or shorten the endowment or premium-paying agent					
5.4		Other					
5.5		Totals (sum of 5.1 to 5.4)					
Annuities:							
6.1		Paid in cash or left on deposit					
6.2		Applied to provide paid-up annuities					
6.3		Other					
6.4		Totals (sum of 6.1 to 6.3)					
7		Grand Totals (Lines 5.5 plus 6.4)					
Accident and Health Insurance							
			2	3	4	5	6
			Direct Premiums	Direct Premiums Earned	Dividends Paid or Credited on Direct Business	Direct Losses Paid	Direct Losses Incurred
8		Group Policies					
8.1		Federal Employees Health Benefits Program Premium					
8.2		Credit (Group and Individual)					
8.3		Collectively Renewable Policies					
Other Individual Policies							
9.1		Non-cancelable					
9.2		Guaranteed Renewable					
9.3		Non-renewable for stated reasons only					
9.4		Other accidents only					
9.5		All other					
9.6		Totals (sum of 9.1 to 9.5)					
10		Totals (Lines 8 + 8.1 + 8.2 + 8.3 + 9.6)					

Amounts Must Agree to Direct Business Page of Company's Annual Statement.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Life and Accident and Health Insurance Companies			
1	2	3	
Premium	Premium Rate	Premium Tax	
Privilege Tax Calculation (Page 21, Column 6, Line 1 per Annual Statement)			
1 Life Insurance Premiums (Page 21, Column 6, Line 1 per Annual Statement)			
2 DEDUCTIONS			
a. Dividends Paid in Cash			
b. Dividends Applied in Reduction of Premiums			
c. Return Premiums			
d. Total Deductions			
3 NET TAXABLE DIRECT LIFE PREMIUMS & TAX (Column 1, Line 1 minus 2d) x (Column 2, Line 3)			
4 Accident and Health Premiums (Page 21, Column 2, Line 25 minus Line 23.1 per Annual Statement)			
5 DEDUCTIONS			
a. Dividends Paid in Cash or Credited to Policyholders			
b. Total Deductions			
6 NET TAXABLE ACCIDENT AND HEALTH PREMIUMS (Column 1, Line 4 minus 5b) (July 1 thru December 31)			
7 Net Premium Tax before Credits (Column 3, Line 3 plus Column 3, Line 6)			
Less Credits to the Premium Tax			
CORPORATE & REPLACEMENT INCOME TAX INTERGRADATION EXCESS			
Complete Lines 9 thru 11 of Corporate and Replacement Income Tax not paid on a Unitary Method. If paid on a Unitary Method, go to U-1 Schedule and complete as directed			
8 ILLINOIS CORPORATE INCOME TAX PAYMENTS			
8a 1997 Final Payment			
8b 1998 Total Quarterly Payments			
8c Other Payments paid during Calendar Year 1998			
8d Less: State Income Tax Cash Refunds Received			
8e TOTAL			
9 ILLINOIS PERSONAL PROPERTY REPLACEMENT CORPORATE INCOME TAX PAYMENTS			
9a 1997 Final Payment			
9b 1998 Total Quarterly Payments			
9c Other Payments paid during Calendar Year 1998			
9d Less: Replacement State Income Tax Cash Refunds Received			
9e TOTAL			
10 TOTAL NET INCOME TAXES (Lines 8e + 9e)			
11 Total Life Insurance Premium & Accident and Health Premium (Column 1, Line 3 plus Column 1, Line 6)			
12 Integration Offset is excess of 1.5% Net Taxable Premium (Line 11 x 1.5%)			
13 Integration Offset Amount (Line 10 minus Line 12) if negative, put zero			
14 NET PREMIUM TAX (Line 7 less Line 10c less Line 13)			

Computation of Retaliatory Taxes

Under "215 ILCS 5/444 and 5/444.1" of the Illinois Compiled Statutes, when the laws of any other state require of companies domiciled in Illinois the payment of penalties, fees, charges or taxes greater than those required in the aggregate for like purposes under the laws of Illinois by companies domiciled in such states the Director of Insurance is required to impose comparable requirements on a retaliatory basis. All insurance related taxes and fees, including premium taxes, based on the State of Incorporation requirements, should be calculated below with the total carried forward to Page 6, Line 2 under Column 2. New York domiciled companies must file and pay a tentative retaliatory tax to Illinois by the due date (March 15 of each year). An amended return must be filed 30 days after the actual CT33 and CT33-M is filed with New York. Companies domiciled in other states must include with their return a copy of the State of Incorporation tax form using Illinois business.

Retaliatory Tax Calculation	Column 1 State of Illinois Basis	Column 2 State of Incorporation Basis
1. Annual Statement Filing Fee	\$100.00	
2. Certificate of Authority Fee	\$100.00	
3. Fire Marshal Tax		
4. Fire Department Tax (proof of payment must be attached)		
5. Financial Regulation Fee		
6. Policy Form Filing Fee		
*7a. Corporate & Replacement Income Taxes Paid		
7b. Illinois Life & Health Guaranty Fund Credit (per Association's official notice)		XXXXXXXXXXXXXX
7c. Other State of Illinois Taxes and Fees per Article XXV	XXXXXXXXXXXXXX	
7d. Other State of Incorporation Taxes and Fees		
8. Premium Tax, Franchise Tax, etc		
9. Total Illinois Basis	XXXXXXXXXXXXXX	XXXXXXXXXXXXXX
10. Total State of Incorporation Basis		
11. Total Retaliatory Tax Due (enter difference between Columns (1) and (2) if Column 2 exceeds Column 1. Otherwise enter "0". Balance cannot be less than 0.		

*If Illinois Corporate and Replacement Income taxes are paid on a unitary method, please complete Schedule U-1 in detail. Proof of Payment (cancelled checks and IL1120) must be attached to verify basis.

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULESDEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

Income Tax Offset Based on Unitary Method of Corporate and Replacement Tax						
Allocated by each Company's Illinois Premium Written (including annuities) to the Unitary Group's Total Illinois Premium Written (Schedule U-1)						
1	2	3	4	5	6	7
Company Name of Each Unitary Member	Company FEIN	Illinois Direct Premium	Percentage Allocation	Tax Offset Allocated by Percentage	Refund Offset Allocation by %	Results Allowed
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15	Column Totals					

Taxes Paid By (Name of Company and the FEIN of Taxpayer) _____

Total Taxes Paid _____

Total Refund Issued _____

Net Available for Offset _____
(This amount will be verified per the Department of Revenue records.)

Procedure to Determine the Income Tax Offset on the Unitary Method

We will use Schedule U-1 to determine the income tax offset for companies using the Unitary Method. The allocation of the total income tax paid will be based on the Illinois premium written (including annuities) by each individual company as a percent of the Unitary group total. This allocation is multiplied by the unitary calendar year amount paid and the result is the available income tax offset for that individual company.

If the unitary group received a refund during the calendar year, the refund must also be allocated among the individual companies. If a member of the unitary group received a refund during the calendar year, the refund must be allocated among all members of the unitary group. Only the net amount is allowed.

Each unitary group must complete Schedule U-1 to be allowed the offset. Any unitary group that does not complete Schedule U-1 will not be allowed to use the Illinois Corporate and Replacement income taxes in the calculation of the privilege and retaliatory taxes.

Payment Summary		Column 1	Column 2
1	Amount due as Privilege Tax (Line 14, Page 3)		
2	Amount due as Retaliatory Tax (Line 11, Page 4)		
3	Total Privilege and Retaliatory Tax (Line 1 plus 2)		
4	LESS PRIVILEGE TAX ESTIMATED INSTALLMENTS		
4a	April 15, 1998	XXXXXXXXXXXXXXXXXXXX	
4b	June 15, 1998		
4c	September 15, 1998		
4d	December 15, 1998		
4e	Total (Add 4a thru 4d)		
5	LESS RETALIATORY TAX QUARTERLY ESTIMATES		
5a	April 15, 1998		
5b	June 15, 1998		
5c	September 15, 1998		
5d	December 15, 1998		
5e	Total (Add 5a thru 5d)		
6	TOTAL ESTIMATED PAYMENTS (Lines 4e plus 5e)		
7	LESS: PRIOR YEAR END OVERPAYMENT (as reported on prior year tax return)		
8	TOTAL CREDITS (Line 6 plus line 7)		
9	BALANCE DUE (Line 3 less Line 8)		
10	Failure to file tax return penalty (\$200 per month or 5% of tax, whichever is greater)		
11	Failure to pay tax penalty (5% of tax due)		
12	Interest on the tax paid after due date per IRS rate, minimum 12%		
13	Total remittance with tax return (Lines 9, 10, 11 and 12)		
14	TAX OVERPAYMENT		

*Calculate per *215 LCS 5/412* of the Illinois Compiled Statutes.
**All overpayments must be applied to future privilege or retaliatory tax liabilities only.

State of _____
County of _____

OATH
Notary Public (Signature) _____

Name: _____ Title: _____ of the _____ (Company)
(Signature of Corporate Officer)

declares under penalties of perjury that the foregoing Statement (including the accompanying schedules) has been examined by him, and to the best of his knowledge and belief is true, correct and complete

Subscribed and sworn to before me this _____ day of _____, 19____

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

Section 2510. ILLUSTRATION C. Annual Privilege Tax Return and Quarterly Tax Statement

State of Illinois
1998 Privilege and Retaliatory Tax Statement for Health Maintenance Organizations, Limited
Health Service Organizations, Voluntary Health Service Plans and Dental Service Plans
Business during the Calendar Year 1998



Federal Employer Identification Number: _____ NAIC _____

Name of insured company _____

with principal office located at _____ City _____ State _____ Zip Code _____

incorporated under the laws of the State of _____ as required by and in
accordance with "215 ILCS 5/410" of the Illinois Compiled Statutes

Mailing address, if other than principal office location shown above _____

Contact person: _____ Phone () _____

Instructions

Important Notice: The FEIN must be on this statement to ensure proper posting to your company account.
The official filing date is the U.S. Postal date.

1. The Privilege and Retaliatory Tax Statement must be filed and the taxes due must be paid on or before March 15, 1999.
2. Separate checks and statement is requested for each organization or plan.
3. The Department of Insurance cannot issue cash refunds of overpayments. Overpayments should be applied to all future privilege and retaliatory tax liabilities only.
4. No authority exists for granting any extension of time for filing or payment.
5. The payment received will be subject to audit and subsequent adjustments if necessary.
6. Any penalties to be levied will be assessed as provided by "215 ILCS 5/412," Illinois Compiled Statutes.
7. File only one original notarized copy. The Illinois Department of Insurance will not accept computerized, fax or any other electronic transmission. Companies must use the prescribed form furnished by the Department. Failure to do so will subject your company to penalties per "215 ILCS 5/412," of the Illinois Compiled Statutes.
8. Remittance should be made payable to the Director of Insurance and mailed with the completed tax statement to attention: Tax and Fiscal Services Section, Illinois Department of Insurance, 320 West Washington Street, Springfield, Illinois 62767-0001.

Do not mail checks or forms with the Annual Statement

Important Notice: Disclosure of this information is required under the Illinois Revised Statutes' Insurance Laws. Failure to provide this information will result in a fine. This form has been approved by the Forms Management Center.

IL 446-0126-11 Printed on recycled paper

Only Complete the Part Applicable to Your License.

Type of Organization or Plan	Premium
Health Maintenance Organizations	
Premium taxable effective January 1, 1999	
Net taxable premium per Schedule T of the Annual Statement, Page 60, Line 14, Columns 4 and 5	
Limited Health Service Organizations	
Net taxable premium per Schedule T of the Annual Statement, Page 56, Line 14, Columns 4 and 5	
Voluntary Health Service Plans	
Net taxable premium per Schedule T of the Annual Statement, Page 56, Line 14, Columns 4 and 5	
Dental Service Plans	
Net taxable premium per the Annual Statement, Page 7, Line 4, Column 1	

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

Privilege Tax Calculation		1 Premium	2 Premium Rate	3 Premium Tax
1	ACCIDENT AND HEALTH PREMIUMS			
2	DEDUCTIONS			
2a	Dividends Paid in Cash			
2b	Dividends Applied in Reduction of Premiums			
2c	Return Premiums			
2d	Total Deductions			
3	NET TAXABLE ACCIDENT & HEALTH PREMIUMS (Column 1, Line 1 minus 2d)		004	
Less Credits to the Premium Tax				
CORPORATE & REPLACEMENT INCOME TAX INTERGRADATION EXCESS Complete Lines 4 thru 7 if Corporate and Replacement Income Tax not paid on a Unitary Method. If paid on a Unitary Method, go to U-1 Schedule and complete as directed.				
4	ILLINOIS CORPORATE INCOME TAX PAYMENTS			
4a	1997 Final Payment			
4b	1998 Total Quarterly Payments			
4c	Other Payments paid during Calendar Year 1998			
4d	Less: State Income Tax Cash Refunds Received			
4e	TOTAL			
5	ILLINOIS PERSONAL PROPERTY REPLACEMENT CORPORATE INCOME TAX PAYMENTS			
5a	1997 Final Payment			
5b	1998 Total Quarterly Payments			
5c	Other Payments paid during Calendar Year 1998			
5d	Less: Replacement State Income Tax Cash Refunds Received			
5e	TOTAL			
6	TOTAL NET INCOME TAXES (Lines 4e + 5e, Column 1)			
7	Intergradation Offset is excess of 1.5% Net Taxable Premium (Line 3 of Column 3)			
8	NET TAXABLE PREMIUM (Line 3, Column 3) LESS INTERGRADATION OFFSET (Line 7, Column 3)			

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

Computation of Retaliatory Taxes		
Under "215 ILCS 5/444 and 5/444.1" of the Illinois Compiled Statutes, when the laws of any other state require of companies domiciled in Illinois the payment of penalties, fees, charges or taxes greater than those required in the aggregate for like purposes under the laws of Illinois by companies domiciled in such states, the Director of Insurance is required to impose comparable requirements on a retaliatory basis. All insurance related taxes and fees, including premium taxes, based on the State of Incorporation requirements, should be calculated below with the total carried forward to Page 6, Line 2 under Column 2, New York domiciled companies must file and pay a tentative retaliatory tax to Illinois by the due date (March 15 of each year). An amended return must be filed 30 days after the actual CT33 and CT33-M is filed with New York. Companies domiciled in other states must include with their return a copy of the State of Incorporation tax form using Illinois business.		
Retaliatory Tax Calculation	Column 1 State of Illinois Basis	Column 2 State of Incorporation Basis
1 Annual Statement Filing Fee	\$100.00	
2 Certificate of Authority Fee	\$100.00	
3 Fire Marshal Tax		
4 Fire Department Tax (proof of payment must be attached)		
5 Financial Regulation Fee		
6 Policy Form Filing Fee		
* 7a Corporate & Replacement Income Taxes Paid		
7b Illinois Life & Health Guaranty Fund Credit (per Association's official notice)		
7c Other State of Illinois Taxes and Fees per Article XXV	xxxxxxxxxxxxxx	xxxxxxxxxxxxxx
7d Other State of Incorporation Taxes and Fees	xxxxxxxxxxxxxx	
8 Premium Tax, Franchise Tax, etc.		
9 Total Illinois Basis	xxxxxxxxxxxxxx	xxxxxxxxxxxxxx
10 Total State of Incorporation Basis	xxxxxxxxxxxxxx	
11 Total Retaliatory Tax Due (enter difference between Columns (1) and (2); if Column 2 exceeds Column 1, Otherwise enter "0". Balance cannot be less than 0.	xxxxxxxxxxxxxx	

*If Illinois Corporate and Replacement Income taxes are paid on a unitary method, please complete Schedule U-1 in detail. Proof of Payment (cancelled checks and IL1120) must be attached to verify basis.

Income Tax Offset Based on Unitary Method of Corporate and Replacement Tax						
Allocated by each Company's Illinois Premium Written (including annuities) to the Unitary Group's Total Illinois Premium Written (Schedule U-1)						
Identity		Payment			Refund	Results
1	2	3	4	5	6	7
Company Name of Each Unitary Member	Company FEIN	Illinois Direct Premium	Percentage Allocation	Tax Offset Allocated by Percentage	Refund Offset Allowed by %	Allowed
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15	Column Totals					

Taxes Paid By (Name of Company and the FEIN of Taxpayer) _____

Total Taxes Paid _____

Total Refund Issued _____

Net Available for Offset _____
(This amount will be verified per the Department of Revenue records.)

Procedure to Determine the Income Tax Offset on the Unitary Method

We will use Schedule U-1 to determine the income tax offset for companies using the Unitary Method. The allocation of the total income tax paid will be based on the Illinois premium written (including annuities) by each individual company as a percent of the Unitary group total. This allocation is based on the unitary calendar year amount paid and the result is the available income tax offset for that individual company. If the unitary group received a refund during the calendar year, the refund must also be allocated among the individual companies. If a member of the unitary group received a refund during the calendar year, the refund must be allocated among all members of the unitary group. Only the net amount is allowed.

Each unitary group must complete Schedule U-1 to be allowed the offset. Any unitary group that does not complete Schedule U-1 will not be allowed to use the Illinois Corporate and Replacement income taxes in the calculation of the privilege and replacement taxes.

Payment Summary	Column 1	Column 2
1. Amount due as Privilege Tax (Line 8, Page 3)		
2. Amount due as Regulatory Tax (Line 11, Page 4)		
3. Total Privilege and Regulatory Tax (Line 1, plus 2)		
4. LESS PRIVILEGE TAX ESTIMATED INSTALLMENTS		
4a. April 15, 1998	xxxxxxxxxxxxxxxxxxxx	
4b. June 15, 1998		
4c. September 15, 1998		
4d. December 15, 1998		
4e. Total (Add 4a thru 4d)		
5. LESS REGULATORY TAX QUARTERLY ESTIMATES		
5a. April 15, 1998		
5b. June 15, 1998		
5c. September 15, 1998		
5d. December 15, 1998		
5e. Total (Add 5a thru 5d)		
6. TOTAL ESTIMATED PAYMENTS (Lines 4e plus 5e)		
7. LESS: PRIOR YEAR END OVERPAYMENT (as reported on prior year tax return)		
8. TOTAL CREDITS (Line 6 plus line 7)		
9. BALANCE DUE (Line 3 less Line 8)		
10. Failure to file tax return penalty (\$200 per month or 5% of tax, whichever is greater)		
11. Failure to pay tax penalty (5% of tax due)		
12. Interest on the tax paid after due date per IRS rate, minimum 12%		
13. Total remittance with tax return (Lines 9, 10, 11 and 12)		
14. TAX OVERPAYMENT		

*Calculate per "215 ILCS 5/412" of the Illinois Compiled Statutes.
**All overpayments must be applied to future privilege or regulatory tax liabilities only.

State of _____ OATH
County of _____ Notary Public (Signature) _____

Name: _____ Title: _____ of the _____
(Signature of Corporate Officer)

declares under penalties of perjury that the foregoing Statement (including the accompanying schedules) has been examined by him, and to the best of his knowledge and belief is true, correct and complete

Subscribed and sworn to before me this _____ day of _____, 19____

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Section ILLUSTRATION D Direct Business in the State of Illinois (Property and Casualty)

2510. Illustration D Direct Business in the State of Illinois (Life and Accident)

ANNUAL STATEMENT FOR THE YEAR 1998 OF THE
DIRECT BUSINESS IN THE STATE OF
LIFE INSURANCE

ANNUAL STATEMENT FOR THE YEAR 1998 OF THE
DIRECT BUSINESS IN THE STATE OF
ACCIDENT AND HEALTH INSURANCE

LIFE INSURANCE

N.A.I.C. Company Code

AFTER THE YEAR

N.A.I.C. Group Code

AFTER THE YEAR

DIRECT PREMIUMS AND ANNUITY CONSIDERATIONS

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																											
1	Life insurance																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																														

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

2510 Illustration D Direct Business in the State of Illinois (Health Maintenance Organization)

STATEMENT AS OF
OF THE
SCHEDULE T—PREMIUMS AND OTHER CONSIDERATIONS
Allocated by States and Territories

1	2	3	4	5	6	7
State, Etc.	Company (Yes or No)	In Insurer Liquor (Yes or No)	Premiums	Net State Taxes	Medicaid Taxes	Federal Employee Program Premiums
1 Alabama						
2 Alaska						
3 Arizona						
4 Arkansas						
5 California						
6 Colorado						
7 Connecticut						
8 Delaware						
9 District of Columbia						
10 Florida						
11 Georgia						
12 Hawaii						
13 Idaho						
14 Illinois						
15 Indiana						
16 Iowa						
17 Kansas						
18 Kentucky						
19 Louisiana						
20 Maine						
21 Maryland						
22 Massachusetts						
23 Michigan						
24 Minnesota						
25 Mississippi						
26 Missouri						
27 Montana						
28 Nebraska						
29 Nevada						
30 New Hampshire						
31 New Jersey						
32 New Mexico						
33 New York						
34 North Carolina						
35 North Dakota						
36 Ohio						
37 Oklahoma						
38 Oregon						
39 Pennsylvania						
40 Rhode Island						
41 South Carolina						
42 South Dakota						
43 Tennessee						
44 Texas						
45 Utah						
46 Vermont						
47 Virginia						
48 Washington						
49 West Virginia						
50 Wisconsin						
51 Wyoming						
52 Federal (Direct Business)						
53 Total (Direct Business)						
DETAILS OF WRITE-DOWNS						
1991						
1992						
1993						
Summary of amounts reported for Line 53 from schedule M-40						
1991 Total (Lines 501 through 503) and 514 (Line 51) amount						
1992 Total (Lines 501 through 503) and 514 (Line 51) amount						
1993 Total (Lines 501 through 503) and 514 (Line 51) amount						

Check Premium Basis (V) () Written () Earned () Collected () Other (Explain)
Explain basis of Premium Allocation by State

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

2510 Illustration D Direct Business in the State of Illinois (Limited Health Service Organization)

STATEMENT AS OF
OF THE
SCHEDULE T—PREMIUMS AND OTHER CONSIDERATIONS
Allocated by States and Territories

1	2	3	4	5	6	7
State, Etc.	Company (Yes or No)	In Insurer Liquor (Yes or No)	Premiums	Medicaid Taxes	Medicaid Taxes	Federal Employee Program Premiums
1 Alabama						
2 Alaska						
3 Arizona						
4 Arkansas						
5 California						
6 Colorado						
7 Connecticut						
8 Delaware						
9 District of Columbia						
10 Florida						
11 Georgia						
12 Hawaii						
13 Idaho						
14 Illinois						
15 Indiana						
16 Iowa						
17 Kansas						
18 Kentucky						
19 Louisiana						
20 Maine						
21 Maryland						
22 Massachusetts						
23 Michigan						
24 Minnesota						
25 Mississippi						
26 Missouri						
27 Montana						
28 Nebraska						
29 Nevada						
30 New Hampshire						
31 New Jersey						
32 New Mexico						
33 New York						
34 North Carolina						
35 North Dakota						
36 Ohio						
37 Oklahoma						
38 Oregon						
39 Pennsylvania						
40 Rhode Island						
41 South Carolina						
42 South Dakota						
43 Tennessee						
44 Texas						
45 Utah						
46 Vermont						
47 Virginia						
48 Washington						
49 West Virginia						
50 Wisconsin						
51 Wyoming						
52 Federal (Direct Business)						
53 Total (Direct Business)						
DETAILS OF WRITE-DOWNS						
1991						
1992						
1993						
Summary of amounts reported for Line 53 from schedule M-40						
1991 Total (Lines 501 through 503) and 514 (Line 51) amount						
1992 Total (Lines 501 through 503) and 514 (Line 51) amount						
1993 Total (Lines 501 through 503) and 514 (Line 51) amount						

Check Premium Basis (V) () Written () Earned () Collected () Other (Explain)
Explain basis of Premium Allocation by State

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

1) Heading of the Part: Annual Retaliatory Tax

2) Code Citation: 50 Ill. Adm. Code 2515

Section Numbers:	Proposed Action:
2515.10	New Section
2515.20	New Section
2515.30	New Section
2515.40	New Section
2515.50	New Section
2515.60	New Section
2515.70	New Section
2515.80	New Section
2515.90	New Section
2515.100	New Section
2515. Illustration A	New Section
2515. Illustration B	New Section

4) Statutory Authority: Implementing Sections 444 and 444.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401, 444 and 444.1] (see P.A. 90-583, effective May 29, 1998).

5) A Complete Description of the Subjects and Issues Involved: This Part explains the calculation of the retaliatory tax, sets forth the payment informational requirements and the payment schedule for the retaliatory tax. Furthermore, it explains how the 1997 retaliatory tax is to be calculated and provides three illustrations which help describe informational requirements for filing the annual retaliatory tax return, quarterly installment and a supplemental tax return when filing privilege tax under protest.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rule contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

2510. Illustration D Direct Business in the State of Illinois (Dental Service Plans)

UNDERWRITING AND INVESTMENT EXHIBIT
PART I - PREMIUMS

Line of Business	1 Direct Business	2 Reinsurer Assumed	3 Reinsurer Ceded	4 Net Premiums Written (Cols 1+2-3)	5 Unearned Premiums (December 31 Prior Year)	6 Unearned Premiums Current Year (Part 1A)	7 Reserve for Re-Credits and Return Premiums on Experience	8 Total Reserve Premium (Col 6+7)	9 Premiums Earned (Col 8+9)
1. Comprehensive (Hospital & Medical only)									
2. Medicare Supplemental									
3. Medicare Supplemental									
4. Medicare Supplemental									
5. Federal Employee Health Benefit Plan									
6. Title XVII - Medicare									
7. Title XVIII - Medicare									
8. Other									
9. Totals (Sum of Lines 1 through 8)									

PART I A - UNEARNED PREMIUMS

	1 Premiums on Force December 31 Current Year	2 Amount of Premiums on Force (Required)
1. Annual premiums		
2. Semi-annual premiums		
3. Quarterly premiums		
4. Advance premiums		
5. Totals		

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Chuck Feinen
Staff Attorney
Department of Insurance
320 West Washington
Springfield Illinois
62767-0001
(217) 557-1396

Denise Hamilton
Rules Unit Supervisor
Department of Insurance
320 West Washington
Springfield, Illinois
62767-0001
(217) 785-8560

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
Please see Sections 2515.50, 2515.70 and 2515.80.

C) Types of professional skills necessary for compliance: Clerical and accounting skills.

13) Regulatory Agenda on which this rule was summarized: July 1998

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ee: FEES, CHARGES AND TAXES

PART 2515
ANNUAL RETALIATORY TAX

Section	Purpose
2515.10	Applicability
2515.20	Severability
2515.30	Definitions
2515.40	Calculation of the Annual Retaliatory Tax Amount
2515.50	Payment Schedule for the Annual Retaliatory Tax
2515.60	Filing Supplemental Retaliatory Tax Return
2515.70	Annual Retaliatory Tax Return and Quarterly Statement Filing Requirements
2515.80	Civil Penalties and Interest
2515.90	Hearings
2515.100	ILLUSTRATION A Annual Retaliatory Tax Returns and Quarterly Tax Statements
ILLUSTRATION B	Supplemental Retaliatory Tax Return
AUTHORITY: Implementing Sections 444 and 444.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401, 444 and 444.1] (see P.A. 90-583, effective May 29, 1998).	

SOURCE: Adopted at 22 Ill. Reg. _____, effective _____.

Section 2515.10 Purpose

This Part sets forth certain procedural requirements, and explains the calculation of the Annual Retaliatory Tax that is to be collected pursuant to Sections 444 and 444.1 of the Illinois Insurance Code [215 ILCS 5/444 and 444.1] (see P.A. 90-583, effective May 29, 1998).

Section 2515.20 Applicability

This Part applies to all foreign or alien companies doing insurance business or licensed in the State of Illinois.

Section 2515.30 Severability

If any Section, subsection, paragraph, sentence, clause, or phrase of this Part is declared invalid for any reason, the remaining portions of this Part, that are severable from the invalid portion shall remain in full force and effect. If any portion of this Part is declared invalid in one or more of its applications, the remaining portion shall be severable and in effect in all

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

10) Other insurance taxes and fees per Article XXV of the Code.

- c) For calendar years starting January 1, 1998, and thereafter, the state of incorporation's basis is the sum of the amounts that an Illinois domiciled company would have paid in the foreign or alien company's domiciliary state or country if it transacted similar business there as did the foreign or alien company in Illinois for the following items, or their equivalent, in the foreign or alien state of domicile:

- 1) Annual Statement Filing Fee;
- 2) Certificate of Authority Fee;
- 3) Financial Regulation Fee;
- 4) Policy Form Filing Fee;
- 5) The amount of income or franchise tax without reduction, if any was otherwise allowed, for a similar association offset as the Illinois Life and Health Guaranty Association offset as long as subsection (b)(9) of this Section is effective or until January 1, 2003;
- 6) The amount of Fire Department tax;
- 7) Annual Privilege or Premium tax;
- 8) State Fire Marshal tax; and
- 9) Other insurance taxes and fees charged in the foreign or alien company's state of domicile similar to those charged per Article XXV of the Code [215 ILCS 5/408 through 415].

- d) For the purposes of this Part, the State of Illinois' basis and the state of incorporation's basis, do not, among others, include the following items, or their equivalent:
- 1) Cost Containment Fees or fees principally for collecting underwriting data;
 - 2) Workers' Compensation Rate adjustment, Second injury adjustments or other assessments of a workers' compensation system;
 - 3) Special purpose entity assessments;
 - 4) Illinois Guaranty Fund assessments;
 - 5) Illinois Life and Health Guaranty Association assessment, unless established as an offset pursuant to subsection (a) of this Section;
 - 6) Auto Theft assessment; and
 - 7) Assessments not referenced by or contained in Article XXV of the Code [215 ILCS 5/408 through 415].

- e) The retaliatory tax owed by a foreign or alien company is the difference between the sum of the state of incorporation's basis minus the sum of the State of Illinois' basis.

Section 2515.60 Payment Schedule for the Annual Retaliatory Tax

- a) For the calendar year ending December 31, 1997, the retaliatory tax for any foreign or alien company shall be as determined pursuant to Sections 444 and 444.1 of the Code [215 ILCS 5/444 and 444.1] (see P.A. 90-583, effective May 29, 1998) and this Part.
- b) Any annual retaliatory tax returns and payments made for the year 31, 1997; and

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

valid applications.

Section 2515.40 Definitions

Except as stated and unless a different meaning of a term is clear from its context, the definitions and terms used in this Part shall be the same as those used in 50 Ill. Adm. Code 2500.40 and the Illinois Insurance Code [215 ILCS 5].

State of Illinois' Basis means the taxes, fees and charges assessed against and paid by a company transacting insurance business in the State of Illinois as described in Section 2515.50(b) of this Part.

State of Incorporation's Basis means the taxes, fees and charges that would have been assessed against and paid by an Illinois company if it had transacted a similar insurance business in the state of domicile of the foreign or alien company, as the foreign or alien company transacted in Illinois, as described in Section 2515.50(c) of this Part. If applicable, the state of domicile for the alien company may mean its port of entry.

Section 2515.50 Calculation of the Annual Retaliatory Tax Amount

Foreign and alien companies are required to pay a retaliatory tax as calculated in subsection (e) of this Section if the sum of the State of Illinois' basis, as calculated in subsection (b) of this Section, is less than the sum of the state of incorporation's basis, as calculated pursuant to subsection (c) of this Section.

- a) For the calendar year ending December 31, 1997, the sum of the State of Illinois' basis shall be the sum as calculated by this Section, plus any tax offset allowed under Section 531.13 of the Code [215 ILCS 5/531.13], and any income taxes paid in the year 1997 under the Illinois Income Tax Act [35 ILCS 5/201(a) through (d)] after any tax offset allowed under Section 531.13 of the Code [215 ILCS 5/531.13].
- b) For calendar years starting January 1, 1998, and thereafter, the State of Illinois' basis is the sum of the amount actually paid for the following items:

- 1) Annual Statement Filing Fee;
- 2) Certificate of Authority Fee;
- 3) Financial Regulation Fee;
- 4) Policy Form Filing Fee;
- 5) The amount of Corporate and Replacement Income tax paid;
- 6) The amount of Fire Department tax paid;
- 7) Annual Privilege tax paid;
- 8) State Fire Marshal tax paid;
- 9) Guaranty Association tax offset allowed pursuant to Section 531.13 of the Code [215 ILCS 5/531.13] based on the Tax Offset Notice for Calendar Year 1997 issued by the Illinois Life and Health Guaranty Association that has been paid prior to December 31, 1997; and

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

ending December 31, 1997, and any quarterly installments of the taxpayer's total estimated 1998 retaliatory tax paid prior to May 29, 1998, which do not include the items specified by Section 2515.50(a) of this Part, may be amended and restated at the taxpayer's election within one year after the effective date of this Part. An amended and restated return for the year ending December 31, 1997, filed under this subsection and pursuant to the applicable requirements of 50 Ill. Adm. Code 2525.70 shall treat any 1997 payment of estimated privilege taxes under Section 409 of the Code [215 ILCS 5/409] as in effect prior to October 23, 1997, as a payment of estimated retaliatory taxes for the year ending December 31, 1997. Any overpayment resulting from an amended return and restated retaliatory tax burden filed pursuant to this subsection shall be allowed as a credit against any subsequent privilege or retaliatory tax obligations only after such overpayment has been approved by the Department.

- c) All foreign and alien companies shall make an annual retaliatory tax return for the preceding calendar year on or before March 15 subject to the applicable requirements of Section 2515.80(a) of this Part. Payment of quarterly installments of the taxpayer's total estimated retaliatory tax for the current calendar year shall be due on or before April 15, June 15, September 15 and December 15 of such year in the amount of at least 1/4 of either the total tax paid during the previous calendar year or 80% of the tax due to be paid for the current calendar year and shall be filed pursuant to Section 2515.80(b) of this Part.

- d) All companies that are domiciled in states that allow an extension for the filing of that state's franchise/premium tax must use, in calculating the state of incorporation's basis to determine the annual retaliatory tax, the maximum franchise/premium tax that could be charged by that state of domicile. If the amount of that state's franchise/premium tax the company actually pays for that calendar year for which the extension was requested is less than the maximum tax used to calculate the annual retaliatory tax return, after filing their franchise/premium tax with their state of domicile, companies may amend their March 15 annual retaliatory tax return by filing an amended retaliatory tax return pursuant to 50 Ill. Adm. Code 2525.70 together with the state of domicile's return showing the actual franchise/premium tax paid for that calendar year. If applicable, a credit will be issued according to 50 Ill. Adm. Code 2525.50 for any resulting overpayment. Failure to make this payment on March 15 will subject the company to penalties pursuant to Section 2515.90 of this Part.

- e) All companies transacting insurance in this State whose annual retaliatory tax for the immediately preceding calendar year was less than \$5,000 are not required to file quarterly statements pursuant to subsection (c) of this Section. Companies with an annual retaliatory tax of less than \$5,000 for the immediately preceding year shall file only an annual return pursuant to subsection (c) of this Section.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

- f) Failure to file an annual retaliatory tax return, even if no tax is owed, to make a timely payment, or to file a quarterly statement, if required, will subject the company to penalties pursuant to Section 2515.90 of this Part.

Section 2515.70 Filing Supplemental Retaliatory Tax Return

Any foreign or alien company that pays a portion or all of its privilege tax required by Section 409 of the Code [215 ILCS 5/409] and 50 Ill. Adm. Code 2510 under protest shall, at the time of receiving a preliminary injunction, file a supplemental retaliatory tax return sufficient to disclose the full amount of retaliatory taxes which would be due and owing for the tax period in question if the protest was upheld. Such supplemental retaliatory tax return shall include in the State of Illinois' basis only the amount of any privilege tax paid that has not been paid under protest. An example of such tax return is set forth at Illustration B of this Part.

Section 2515.80 Annual Retaliatory Tax Return and Quarterly Statement Filing Requirements

- a) Annual retaliatory tax returns shall include, but not limited to, the following information as set forth in Illustration A of this Part:

- 1) Name, Federal Employer Identification Number (FEIN), and address of the insurance company;
 - 2) National Association of Insurance Commissioners group number and company code;
 - 3) Information concerning the privilege tax calculation or, if applicable, the state of domicile's tax return completed using Illinois premiums only;
 - 4) Information concerning the allocation of income taxes in a Unitary group, such as, the Unitary group's total premium written including annuities, Unitary group's total income taxes paid and the individual company's premium written; and
 - 5) Signature of an officer of the company attesting to the truth of the information being submitted.
- b) Quarterly statements shall include, but not be limited to, the following information as set forth in Illustration A of this Part:
- 1) Name, Federal Employer Identification Number (FEIN), and address of the insurance company;
 - 2) Information concerning the method by which the quarterly installment is being calculated; and
 - 3) Signature of an officer of the company attesting to the truth of the information being submitted.

Section 2515.90 Civil Penalties and Interest

Failure of a company to file an annual retaliatory tax return, even if no tax is owed, to make the retaliatory tax payment, or to make the quarterly

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

payments, if required, of at least 1/4 of either the total tax paid during the previous calendar year or 80% of the tax due to be paid for the current calendar year shall subject the company to the penalty provisions set forth in Section 412 of the Code [215 ILCS 5/412] and as assessed pursuant to 50 Ill. Adm. Code 2525.100(a).

Section 2515.100 Hearings

Any person or company required to pay an annual retaliatory tax pursuant to this Part may request a hearing to be held for the purposes of determining if the assessed tax is appropriate. A request for hearing shall be made pursuant to the grounds set forth in Section 412 of the Code [412 ILCS 5/412], a mistake of fact, an error in calculation or an erroneous interpretation of a statute of this or any other state, and such request will only be granted based on those grounds. The hearing request shall be made pursuant to the provisions of 50 Ill. Adm. Code 2500.50.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Section 2515. ILLUSTRATION A Annual Retaliatory Tax Returns and Quarterly Tax Statements

State of Illinois
1998 Privilege and Retaliatory Tax Statement for Life and Accident and Health Companies
Business during the Calendar Year 1998

Illinois Department of Insurance
320 West Washington Street
Springfield, Illinois 62767-0001

Federal Employer Identification Number	_____	NAIC	_____
Name of Insured Company	_____		
with principal office located at	State and Number	City	State
_____	_____	_____	_____
incorporated under the laws of the State of	_____ as required by and in		
accordance with "215 ILCS 5/410" of the Illinois Compiled Statutes.	_____		
Mailing address, if other than principal office location shown above	_____		
_____	_____		
Contact person	Phone () _____		

Instructions

Important Notice: The FEIN must be on this statement to ensure proper posting to your company account

1. The Privilege and Retaliatory Tax Statement must be filed and the taxes due must be paid on or before March 15, 1998
The official filing date is the U.S. Postal date.

2. Separate checks and statement is requested for each company of an insurance group

3. The Department of Insurance cannot issue cash refunds of overpayments. Overpayments should be applied to all future privilege and retaliatory tax liabilities only.

4. No authority exists for granting any extension of time for filing or payment

5. The payment received will be subject to audit and subsequent adjustments if necessary

6. Any penalties to be levied will be assessed as provided by "215 ILCS 5/412," Illinois Compiled Statutes.

7. File only one original notarized copy. The Illinois Department of Insurance will not accept computerized, fax or any facsimile tax statements. Companies must use the prescribed form furnished by the Department. Failure to do so will subject your company to penalties per "215 ILCS 5/412" of the Illinois Compiled Statutes

8. Remittance should be made payable to the Director of Insurance and mailed with the completed tax statement to attention: Tax and Fiscal Services Section, Illinois Department of Insurance, 320 West Washington Street, Springfield, Illinois 62767-0001

Do not mail checks or forms with the Annual Statement

Important Notice: Disclosure of this information is required under the Illinois Revised Statutes' Insurance Laws. Failure to provide this information will result in a fine. This form has been approved by the Forms Management Center.

IL 446-0126-1

Printed on recycled paper

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULESDEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

NAIC Group Code _____					
NAIC Company Code _____					
Direct Business in the State of Illinois During the Year 1998					
Life Insurance					
	2	3	4	5	6
	Ordinary	Credit Life (Group and Individual)	Group	Industrial	Total
Direct Premiums and Annuity Considerations					
1. Life Insurance					
2. Annuity considerations					
3. Deposit-type funds					
4. Totals (sum of Lines 1 to 3)					
Direct Dividends to Policyholders					
Life Insurance:					
5.1. Paid in cash or left on deposit					
5.2. Applied to pay renewal premiums					
5.3. Applied to provide paid-up additions or shorten the term of contract or premium-payment agent					
5.4. Other					
5.5. Totals (sum of 5.1 to 5.4)					
Annuities:					
6.1. Paid in cash or left on deposit					
6.2. Applied to provide paid-up annuities					
6.3. Other					
6.4. Totals (sum of 6.1 to 6.3)					
7. Grand Totals (Lines 5.5 plus 6.4)					
Accident and Health Insurance					
	2	3	4	5	6
	Direct Premiums	Direct Premiums Earned	Dividends Paid or Credited on Direct Business	Direct Losses Paid	Direct Losses Incurred
8. Group Policies					
8.1. Federal Employees Health Benefits Program Premium					
8.2. Credit (Group and Individual)					
8.3. Collectively Renewable Policies					
Other Individual Policies:					
9.1. Non-cancelable					
9.2. Guaranteed Renewable					
9.3. Non-renewable for stated reasons only					
9.4. Other accidents only					
9.5. All other					
9.6. Totals (sum of 9.1 to 9.5)					
10. Total (Lines 8 + 9.1 + 9.2 + 9.3 + 9.6)					

Amounts Must Agree to Direct Business Page of Company's Annual Statement.

Life and Accident and Health Insurance Companies			
	1	2	3
	Premium	Premium Rate	Premium Tax
Privilege Tax Calculation			
1. Life Insurance Premiums (Page 21, Column 6, Line 1 per Annual Statement)			
DEDUCTIONS			
a. Dividends Paid in Cash			
b. Dividends Applied in Reduction of Premiums			
c. Return Premiums			
d. Total Deductions			
3. NET TAXABLE DIRECT LIFE PREMIUMS & TAX (Column 1, Line 1 minus 2d) (Column 2, Line 3)		005	
4. Accident and Health Premiums (Page 21, Column 2, Line 25 minus Line 23.1 per Annual Statement)			
DEDUCTIONS			
a. Dividends Paid in Cash or Credited to Policyholders			
b. Total Deductions			
6. NET TAXABLE ACCIDENT AND HEALTH PREMIUMS (Column 1, Line 4 minus 5b) (July 1 thru December 31)			
7. Net Premium Tax before Credits (Column 3, Line 3 plus Column 3, Line 6)		004	
Less Credits to the Premium Tax			
CORPORATE & REPLACEMENT INCOME TAX INTERGRADATION EXCESS			
Complete Lines 9 thru 11 if Corporate and Replacement Income Tax not paid on a Unitary Method. If paid on a Unitary Method, go to U-1 Schedule and complete as directed.			
8. ILLINOIS CORPORATE INCOME TAX PAYMENTS			
8a. 1997 Final Payment			
8b. 1998 Total Quarterly Payments			
8c. Other Payments paid during Calendar Year 1998			
8d. Less: State Income Tax Cash Refunds Received			
8e. TOTAL			
9. ILLINOIS PERSONAL PROPERTY REPLACEMENT CORPORATE INCOME TAX PAYMENTS			
9a. 1997 Final Payment			
9b. 1998 Total Quarterly Payments			
9c. Other Payments paid during Calendar Year 1998			
9d. Less: Replacement State Income Tax Cash Refunds Received			
9e. TOTAL			
10. TOTAL NET INCOME TAXES (Lines 8e + 9e)			
11. Total Life Insurance Premium & Accident and Health Premium (Column 1, Line 3 plus Column 1, Line 6)			
12. Integration Offset (is excess of 1.5% Net Taxable Premium (Line 11 x 1.5%))			
13. Integration Offset Amount (Line 10 minus Line 12) if negative, put zero			
14. NET PREMIUM TAX (Line 7 less Line 10c less Line 13)			

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

Computation of Retaliatory Taxes

Under "215 ILCS 5/444.1" of the Illinois Compiled Statutes, when the laws of any other state require of companies domiciled in Illinois the payment of penalties, fees, charges or taxes greater than those required in the aggregate for like purposes under the laws of Illinois by companies domiciled in such states, the Director of Insurance is required to impose comparable requirements on a retaliatory basis. All insurance related taxes and fees, including premium taxes, based on the State of Incorporation requirements, should be calculated below with the total carried forward to Page 6, Line 2 under Column 2. New York domiciled companies must file and pay a tentative retaliatory tax to Illinois by the due date (March 15 of each year). An amended return must be filed 30 days after the actual CT33 and CT33-M is filed with New York. Companies domiciled in other states must include with their return a copy of the State of Incorporation tax form using Illinois business.

Retaliatory Tax Calculation		Column 1 State of Illinois Basis	Column 2 State of Incorporation Basis
1.	Annual Statement Filing Fee	\$100.00	
2.	Certificate of Authority Fee	\$100.00	
3.	Fire Marshal Tax		
4.	Fire Department Tax (proof of payment must be attached)		
5.	Financial Regulation Fee		
6.	Policy Form Filing Fee		
*7a.	Corporate & Replacement Income Taxes Paid		
7b.	Illinois Life & Health Guaranty Fund Credit (per Association's official notice)		
7c.	Other State of Illinois Taxes and Fees per Article XXV	xxxxxxxxxxxxxx	xxxxxxxxxxxxxx
7d.	Other State of Incorporation Taxes and Fees	xxxxxxxxxxxxxx	
8.	Premium Tax, Franchise Tax, etc		
9.	Total Illinois Basis	xxxxxxxxxxxxxx	xxxxxxxxxxxxxx
10.	Total State of Incorporation Basis	xxxxxxxxxxxxxx	
11.	Total Retaliatory Tax Due (enter difference between Columns (1) and (2) If Column 2 exceeds Column 1. Otherwise enter "0". Balance cannot be less than 0	xxxxxxxxxxxxxx	

*If Illinois Corporate and Replacement income taxes are paid on a unitary method, please complete Schedule U-1 in detail. Proof of Payment (cancelled checks and IL1120) must be attached to verify basis.

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

Income Tax Offset Based on Unitary Method of Corporate and Replacement Tax Allocated by each Company's Illinois Premium Written (including annuities) to the Unitary Group's Total Illinois Premium Written (Schedule U-1)						
Identity		Payment		Refund		Results
1	2	3	4	5	6	7
Company Name of Each Unitary Member	Company FEIN	Illinois Offset Premium	Percentage Allocation	Tax Offset Allocated by Percentage	Refund Offset Allocation by %	Allowed
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15	Column Totals					

Taxes Paid By (Name of Company and the FEIN of Taxpayer) _____

Total Taxes Paid _____
Total Refund Issued _____
Net Available for Offset _____
(This amount will be verified per the Department of Revenue records.)

Procedure to Determine the Income Tax Offset on the Unitary Method

We will use Schedule U-1 to determine the income tax offset for companies using the Unitary Method. The allocation of the total income tax paid will be based on the Illinois premium written (including annuities) by each individual company as a percent of the Unitary group total. This allocation is multiplied to the unitary calendar year amount paid and the result is the available income tax offset for that individual company. If the unitary group received a refund during the calendar year, the refund must also be allocated among the individual companies. If a member of the unitary group received a refund during the calendar year, the refund must be allocated among all members of the unitary group. Only the net amount is allowed.

Each unitary group must complete Schedule U-1 to be allowed the offset. Any unitary group that does not complete Schedule U-1 will not be allowed to use the Illinois Corporate and Replacement income taxes in the calculation of the privilege and retaliatory taxes.

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

Section 2515 Illustration B Supplemental Retaliatory Tax Return

SUPPLEMENTAL RETALIATORY TAX RETURN

Federal Employer Identification Number (FEIN#) _____

Insurance Company _____

Name of Company _____

Street and Number _____ City _____ State _____ Zip Code _____

For the tax period ending the last day of December, _____ as required by Section 444.1(4) of the Insurance Code (215 ILCS 5/444.1(4)) and 50 Ill. Adm. Code 2515.70 this Supplemental Retaliatory Tax Return is being filed due to the protested privilege tax in the amount of _____ for this same tax period.

SUPPLEMENTAL RETALIATORY TAX

1. Total State of Illinois Basis as reported in the Retaliatory Tax Return filed pursuant to 50 Ill. Adm. Code Part 2515 (As shown in 2515 Illustration A page 4 line 9) \$ _____
2. Total State of Incorporation Basis as reported in the Retaliatory Tax Return filed pursuant to 50 Ill. Adm. Code Part 2515 (As shown in 2515 Illustration A page 4 line 10) \$ _____
3. Total Retaliatory Tax due as reported in the Retaliatory Tax Return filed to 50 Ill. Adm. Code Part 2515 (As shown in 2515 Illustration A page 4 line 11) \$ _____
4. Protested Privilege Tax Amount \$ _____
5. Adjusted State of Illinois Basis for protested amount (Subtract Line 4 from Line 1) \$ _____
6. Total Supplemental Retaliatory Tax due (Subtract Line 5 from Line 2) (Line 16 is the amount, if any, of supplemental retaliatory tax due and owing for the tax period in question if the protest were upheld. If Line 5 is greater than Line 2 no Supplemental Retaliatory Tax is due.) \$ _____

Certified for deposit to General Revenue the amount shown on line 6 \$ _____

I, _____ of the _____, declare under penalties of perjury that the foregoing Supplemental Retaliatory Tax Return has been examined by me, and to the best of my knowledge and belief is true, correct and complete.

*If Illinois Corporate and Replacement income taxes are paid on a unitary method, please remember to complete Schedule U-1 in detail as provided as part of the Illustration C of 50 Ill. Adm. Code 2510. Please provide proof of payment (canceled checks and IL1120) to verify basis
**Please provide proof of payment.

Payment Summary	Column 1	Column 2
1. Amount due as Privilege Tax (Line 14, Page 3)		
2. Amount due as Retaliatory Tax (Line 11, Page 4)		
3. Total Privilege and Retaliatory Tax (Line 1 plus 2)		
4. LESS PRIVILEGE TAX ESTIMATED INSTALLMENTS		
4a. April 15, 1998	XXXXXXXXXXXXXXXXXXXX	
4b. June 15, 1998		
4c. September 15, 1998		
4d. December 15, 1998		
4e. Total (Add 4a thru 4d)		
5. LESS RETALIATORY TAX QUARTERLY ESTIMATES		
5a. April 15, 1998		
5b. June 15, 1998		
5c. September 15, 1998		
5d. December 15, 1998		
5e. Total (Add 5a thru 5d)		
6. TOTAL ESTIMATED PAYMENTS (Lines 4e plus 5e)		
7. LESS: PRIOR YEAR END OVERPAYMENT (as reported on prior year tax return)		
8. TOTAL CREDITS (Line 6 plus line 7)		
9. BALANCE DUE (Line 3 less Line 8)		
10. Failure to file tax return penalty (\$200 per month or 5% of tax, whichever is greater)		
11. Failure to pay tax penalty (5% of tax due)		
12. Interest on the tax paid after due date per IRS rate, minimum 12%		
13. Total remittance with tax return (Lines 9, 10, 11 and 12)		
14. TAX OVERPAYMENT		

*Calculate per "215 ILCS 5/412" of the Illinois Compiled Statutes.
**All overpayments must be applied to future privilege or retaliatory tax liabilities only.

State of _____ OATH
County of _____ Notary Public (Signature) _____
Name: _____ Title _____ of the _____
(Signature of Corporate Officer) _____ (Company) _____
declares under penalties of perjury that the foregoing Statement (including the accompanying schedules) has been examined by him, and to the best of his knowledge and belief is true, correct and complete
Subscribed and sworn to before me this _____ day of _____, 19 _____

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

THIS PAGE LEFT BLANK INTENTIONALLY

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

1) Heading of the Part: Annual State Fire Marshal Tax

2) Code Citation: 50 Ill. Adm. Code 2520

3) Section Numbers: Proposed Action:

2520.10	New Section
2520.20	New Section
2520.30	New Section
2520.40	New Section
2520.50	New Section
2520.60	New Section
2520.70	New Section
2520.80	New Section
2520.90	New Section

ILLUSTRATION A

4) Statutory Authority: Implementing Sections 12 and 13 of the Fire Investigation Act [425 ILCS 25/12 and 13] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

5) A Complete Description of the Subjects and Issues Involved: This Part will set forth the procedural requirements for the payment of the State Fire Marshall Tax pursuant to Section 12 of the Fire Investigation Act [425 ILCS 25/12]. Furthermore, this Part will clarify the calculation of the tax. There is one illustration with this Part and it provides information for the State Fire Marshall Tax return.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rule contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Chuck Feinen
Staff Attorney
Department of Insurance
320 West Washington

or

Denise Hamilton
Rules Unit Supervisor
Department of Insurance
320 West Washington

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Springfield, Illinois 62767-0001 Springfield, Illinois 62767-0001
(217) 557-1396 (217) 785-8560

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This Part not only applies to insurance companies but also Farm Mutuals, the Illinois Fair Plan and surplus line producers.

B) Reporting, bookkeeping or other procedures required for compliance: Please see Sections 2520.50 and 2520.70.

C) Types of professional skills necessary for compliance: Clerical and accounting skills.

13) Regulatory Agenda on which this rule was summarized: July 1998

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ee: FEES, CHARGES AND TAXES

PART 2520

ANNUAL STATE FIRE MARSHAL TAX

Section	Purpose
2520.10	Applicability
2520.20	Severability
2520.30	Definitions
2520.40	Calculation of the State Fire Marshal Tax
2520.50	Payment Schedule for the State Fire Marshal Tax
2520.60	State Fire Marshal Tax Return Filing Requirements
2520.70	Civil Penalties and Interest
2520.80	Hearings
2520.90	Annual State Fire Marshal Tax Return
ILLUSTRATION A	

AUTHORITY: Implementing Sections 12 and 13 of the Fire Investigation Act [425 ILCS 25/12 and 13] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Adopted at 22 Ill. Reg. _____, effective _____.

Section 2520.10 Purpose

This Part sets forth certain procedural requirements, and explains the calculation of the Annual State Fire Marshal Tax that is collected pursuant to Section 12 of the Fire Investigation Act [425 ILCS 25/12].

Section 2520.20 Applicability

This Part applies to insurance companies, Farm Mutuals, Illinois Fair Plan and surplus line producers transacting insurance business pursuant to Section 4 class 3 of the Illinois Insurance Code [215 ILCS 5/4 class 3] in this State, including those which hold licenses to conduct insurance business in both class 2 and class 3 of Section 4 of the Code [215 ILCS 5/4 class 2].

Section 2520.30 Severability

If any Section, subsection, paragraph, sentence, clause, or phrase of this Part is declared invalid for any reason, the remaining portions of this Part that are severable from the invalid portion shall remain in full force and effect. If any portion of this Part is declared invalid in one or more of its applications, the remaining portion shall be severable and in effect in all valid applications.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Section 2520.40 Definitions

Except as stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part shall be the same as those used in 50 Ill. Adm. Code 2500.40 and the Illinois Insurance Code [215 ILCS 5].

Direct Premium means the "Direct Premiums Written" as reported in column 2 of page 15 (Exhibit of Premiums and Losses) of the 1997 Annual Statement, as hereafter amended, minus the "Dividends Paid or Credited on Direct Business" as reported in column 4 on page 15 (Exhibit of Premiums and Losses) of the 1997 Annual Statement, as hereafter amended; and for Farm Mutuals, Illinois Fair Plan and surplus line producers it is the premium written as reported pursuant to Sections 13, 143.25 and 445 of the Code [215 ILCS 5/13, 143.25 and 445], respectively.

Section 2520.50 Calculation of the State Fire Marshal Tax

The Annual State Fire Marshal Tax shall be calculated by multiplying the sum of taxable premium for the year, as set forth in subsections (a) through (d) of this Section, by 1%.

- a) The total taxable premium for a year is calculated for insurance companies by totaling the direct premium for the following lines of business set forth below and as shown in Illustration A of this Part:
 - 1) All direct fire premium as reported on page 15 (Exhibit of Premiums and Losses) line 1 in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Illinois Insurance Code [215 ILCS 5/136] less any Illinois Fair Plan premiums;
 - 2) Twenty-five percent (25%) of the sum of the direct Allied Lines premium as reported on page 15 (Exhibit of Premiums and Losses) line 2.1, in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Illinois Insurance Code [215 ILCS 5/136] less any Illinois Fair Plan premiums;
 - 3) One percent (1%) of the direct Multiple Peril Crop premium, or Crop Hail premium which is not federally insured, as reported on page 15 (Exhibit of Premiums and Losses) line 2.2, in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Illinois Insurance Code [215 ILCS 5/136];
 - 4) Forty percent (40%) of the direct Farmowners M.P. premium as reported on page 15 (Exhibit of Premiums and Losses) line 3, in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Illinois Insurance Code [215 ILCS 5/136];
 - 5) Forty percent (40%) of the sum of the direct Homeowners M.P. premium as reported on page 15 (Exhibit of Premiums and Losses) line 4, in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Illinois Insurance Code [215 ILCS 5/136] less any Illinois Fair Plan premiums;

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

- 6) Forty percent (40%) of the direct Commercial M.P. (Non-liability) premium as reported on page 15 (Exhibit of Premiums and Losses) line 5.1, in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Illinois Insurance Code [215 ILCS 5/136];
 - 7) Fifteen percent (15%) of the direct Ocean Marine premium as reported on page 15 (Exhibit of Premiums and Losses) line 8, in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Illinois Insurance Code [215 ILCS 5/136];
 - 8) Fifteen percent (15%) of the direct Inland Marine premium as reported on page 15 (Exhibit of Premiums and Losses) line 9, in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Illinois Insurance Code [215 ILCS 5/136];
 - 9) Twenty-five percent (25%) of the direct Earthquake premium as reported on page 15 (Exhibit of Premiums and Losses) line 12, in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Illinois Insurance Code [215 ILCS 5/136];
 - 10) Five percent (5%) of the direct Private Passenger (Automobile Physical Damage) premium as reported on page 15 (Exhibit of Premiums and Losses) line 21.1, in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Illinois Insurance Code [215 ILCS 5/136];
 - 11) Five percent (5%) of the direct Commercial (Automobile Physical Damage) premium as reported on page 15 (Exhibit of Premiums and Losses) line 21.2, in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Illinois Insurance Code [215 ILCS 5/136]; and
 - 12) Ten percent (10%) of the direct Aircraft (All Perils) premium as reported on page 15 (Exhibit of Premiums and Losses) line 22, in the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Illinois Insurance Code [215 ILCS 5/136].
- b) The total taxable premium for a year is calculated for Farm Mutuals by totaling the direct premium for the lines of business as determined in subsection (a) of this Section and reported to the Department pursuant to Section 13 of the Farm Mutual Insurance Company Act of 1986 [215 ILCS 120/13].
 - c) The total taxable premium for a year is calculated for the Illinois Fair Plan by totaling the direct premium for the lines of business as determined in subsection (a) of this Section and reported to the Department pursuant to Section 143.25 of the Code [215 ILCS 5/143.25].
 - d) The total taxable premium for a year is calculated for surplus line producers by totaling the direct premium for the lines of business as determined in subsection (a) of this Section and reported to the Department pursuant to Section 445 of the Code [215 ILCS 5/445].
 - e) The Annual State Fire Marshal Tax as calculated in this Section may be reduced by any overpayment from the prior year as long as there has been a credit letter issued by the Department pursuant to 50 Ill. Adm. Code 2525.60 and a copy is attached to the Annual State Fire Marshal

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Tax return in which a reduction is taken.

- f) The adoption of this Part does not provide for the amendment or alteration of the stated percentage applicable for each type of premium.

Section 2520.60 Payment Schedule for the State Fire Marshal Tax

The Annual State Fire Marshal Tax owed pursuant to Section 12 of the Fire Investigation Act [425 ILCS 25/12] for any calendar year is due in March of the following year, but no later than March 31 of the following year. Failure to file a return, even if no tax is owed, or to make a timely payment will subject the company to penalties pursuant to Section 2520.80 of this Part. Payments shall be made in accordance with 50 Ill. Adm. Code 2500.70(b).

Section 2520.70 State Fire Marshal Tax Return Filing Requirements

The State Fire Marshal Tax shall be submitted on a form similar to the format found in Illustration A of this Part that includes the same information contained in Illustration A of this Part together with a copy of page 15 (Exhibit of Premiums and Losses) from the 1997 Annual Statement, as hereafter amended, filed pursuant to Section 136 of the Code [215 ILCS 5/136], if being filed by an insurance company, or if being filed by the Illinois Fair Plan, Farm Mutuals, and surplus line producers, the annual statements or reports filed, if any, with the Department.

Section 2520.80 Civil Penalties and Interest

The failure of a company, the Illinois Fair Plan or a surplus line producer to file a tax return, even if no tax is owed, or to make a timely payment for the previous calendar year's tax, shall subject it to the penalty provisions set forth in Section 412 of the Code [215 ILCS 5/412] and as assessed pursuant to 50 Ill. Adm. Code 2525.100(a).

Section 2520.90 Hearings

Any person or company required to pay a State Fire Marshal Tax pursuant to this Part may request a hearing to be held for the purposes of determining if the assessed tax is appropriate. A request for hearing shall be made pursuant to the grounds set forth in Section 412 of the Code [215 ILCS 5/412], a mistake of fact, an error in calculation or an erroneous interpretation of a statute of this or any other state, and such request will only be granted based on those grounds. The hearing request shall be made pursuant to 50 Ill. Adm. Code 2500.50.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Section 2520.ILLUSTRATION A Annual State Fire Marshal Tax Return

Name of Company _____

FEIN _____

For the year ending the last day of December, _____ as required by 425 ILCS 25/12.

Illinois State Fire Marshal Tax Worksheet Must Be Completed First

1. Net amount of taxable premiums from Worksheet Line 13 \$ _____
2. Tax Due (1% of Line 1) \$ _____
3. State Fire Marshal Tax Credit (deduct prior year overpayment; attach copy of credit letter) \$ _____
4. Amount of tax paid (subtract Line 3 from Line 2) \$ _____
5. Penalty for failure to file tax statement (\$200/month or 5% of tax, whichever is greater) \$ _____
6. Penalty for failure to pay tax (5% of tax due) \$ _____
7. Interest on tax paid after due date (IRS rate during tax period, 12% minimum) \$ _____
8. Total penalty and interest (add Lines 5 through 7) \$ _____
9. Balance due (Line 4 plus Line 8) \$ _____

A separate check is requested for each company of an insurance group and for each tax or fee. You must complete and return this statement, even if no tax is due.

The undersigned President and Secretary of the Insurance Company, being duly sworn upon their oaths, say that the foregoing report and the statements contained therein and each and every one of them are true and correct.

Secretary's signature _____ Date _____ President's signature _____ Date _____

Subscribed and sworn to before me this _____ day of _____, _____.

Notary Public _____

Contact Person _____

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

My commission expires _____ Phone: _____

Remittance should be made payable to Director of Insurance and mailed with the completed tax statement form to attention: Tax and Fiscal Services Section, Illinois Department of Insurance, 320 West Washington Street, Springfield, Illinois, 62767-0001.

Important notice: Disclosure of this information is required under the Illinois Compiled Statutes' insurance laws. Failure to provide this information could result in a fine.

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES
Illinois State Fire Marshal Tax Worksheet

FEIN: _____
Name of Company _____

Street and Number	City	State	Zip Code
Line of Business & Net Direct Premium Illinois Fair Percentage Taxable Corresponding Line (Col. 2 less Col. 4, Plan Premiums Applicable Premium from Page 15, Page 15) Annual Statement			
1. Fire	1. _____	Less _____	100% _____ 1.
2. Allied Lines	2.1 _____	Less _____	25% _____ 2.
3. Multiple Peril Crop	2.2 _____		1% _____ 3.
4. Farmowners M.P.	3. _____		40% _____ 4.
5. Homeowners M.P.	4. _____	Less _____	40% _____ 5.
6. Commercial M.P. (non-liability)	5.1 _____		40% _____ 6.
7. Ocean Marine	8. _____		15% _____ 7.
8. Inland Marine	9. _____		15% _____ 8.
9. Earthquake	12. _____		25% _____ 9.
10. Private Pass. Auto P/Dam TOTAL	21.1 _____		5% _____ 10.
11. Commercial Auto P/Dam TOTAL	21.2 _____		5% _____ 11.
12. Aircraft (All Perils)	22. _____		10% _____ 12.
13. Total Taxable Premiums (carry forward to line 1, reverse side).....			
14. State Fire Marshal Tax Rate.....			
			\$ _____ 13.
			\$ _____ 14.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

15. State Fire Marshal Tax (carry forward to line 2, reverse side)..... \$ 15.

*Do not include the FAIR Plan as your company direct premium written. The FAIR Plan will pay the State Fire Marshal Tax on these premiums.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

1) Heading of the Part: Fees and Charges

2) Code Citation: 50 Ill. Adm. Code 2505

3) Section Numbers:

2505.10 New Section

2505.20 New Section

2505.30 New Section

2505.40 New Section

2505.50 New Section

2505.60 New Section

2505.70 New Section

2505.80 New Section

2505.90 New Section

2505.100 New Section

2505.110 New Section

2505.120 New Section

2505.Illustration A New Section

2505.Illustration B New Section

Proposed Action:

4) Statutory Authority: Implementing Section 408 and authorized by Sections 401 and 409(5) of the Illinois Insurance Code [215 ILCS 5/401, 408 and 409(5)] (see P.A. 90-583, effective May 29, 1998).

5) A Complete Description of the Subjects and Issues Involved: This Part sets forth the fees and charges that are collected pursuant to Section 408 of the Illinois Insurance Code [215 ILCS 5/408] and establishes certain processes for how those fees and charges are to be calculated. Furthermore, this Part establishes the penalties that could be assessed for failure to pay, or to make payment on time. This Part also contains two illustrations which demonstrate how affiliated groups are to calculate their financial regulation fees.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rule contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES
TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ee: FEES, CHARGES AND TAXES

PART 2505
FEES AND CHARGES

Section	Purpose
2505.10	Applicability
2505.20	Severability
2505.30	Definitions
2505.40	Fees and Charges
2505.50	Performance (Market Conduct) Examination Expenses and Fees
2505.60	Financial Regulation Fee for Domestic Companies
2505.70	Financial Regulation Fee for Foreign and Alien Companies
2505.80	Financial Examination Expenses and Fees
2505.90	Payment Due Date of Fees and Charges
2505.100	Civil Penalties and Interest
2505.110	Hearings
2505.120	ILLUSTRATION A
	Calculation of Financial Regulation Fee for Affiliated Domestic Companies
ILLUSTRATION B	Calculation of Financial Regulation Fee for Affiliated Foreign or Alien Companies

AUTHORITY: Implementing Section 408 and authorized by Sections 401 and 409(5) of the Illinois Insurance Code [215 ILCS 5/401, 408 and 409(5)] (see P.A. 90-583, effective May 29, 1998).

SOURCE: Adopted at 22 Ill. Reg. _____, effective _____.

Section 2505.10 Purpose

This Part sets forth certain procedural requirements and the fees and charges collected from domestic, foreign and alien insurance companies pursuant to Section 408 of the Illinois Insurance Code [215 ILCS 5/408] (see P.A. 90-583, effective May 29, 1998).

Section 2505.20 Applicability

This Part applies to any person or company conducting or transacting any of the actions addressed by Section 408 of the Illinois Insurance Code in which a fee or charge can be assessed by the Director of the Department of Insurance [215 ILCS 5/408] (see P.A. 90-583, effective May 29, 1998).

Section 2505.30 Severability

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

publication of this Notice to:

Chuck Feinen
Staff Attorney
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 557-1396

Denise Hamilton
Rules Unit Supervisor
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 785-8560

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This new rule may affect all persons and businesses regulated by the Department.

B) Reporting, bookkeeping or other procedures required for compliance: Please see Sections 2505.70 and 2505.80.

C) Types of professional skills necessary for compliance: Clerical and accounting skills.

13) Regulatory Agenda on which this rule was summarized: July 1998

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

If any Section, subsection, paragraph, sentence, clause, or phrase of this Part is declared invalid for any reason, the remaining portions of this Part that are severable from the invalid portion shall remain in full force and effect. If any portion of this Part is declared invalid in one or more of its applications, the remaining portion shall be severable and in effect in all valid applications.

Section 2505.40 Definitions

Except as stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part shall be the same as those used in 50 Ill. Adm. Code 2500.40 or in the Illinois Insurance Code [215 ILCS 5].

Section 2505.50 Fees and Charges

The Director shall charge and collect the payment of fees and charges pursuant to Section 408(1) of the Code [215 ILCS 5/408(1)], and payment shall be made in accordance with 50 Ill. Adm. Code 2500.70(a).

Section 2505.60 Performance (Market Conduct) Examination Expenses and Fees

The Director may charge the expenses incurred in any performance examination authorized by law to be paid by the company or person being examined pursuant to Section 408(3) of the Code [215 ILCS 5/408(3)]. The Director may charge, but is not limited to:

- a) A per diem charge of \$175 per examiner for examinations pursuant to Section 408(3) of the Code [215 ILCS 5/408(3)] plus lodging and travel expenses, as assessed pursuant to subsection (b) of this Section.
- b) The travel and lodging expenses shall be calculated in accordance with the applicable travel regulations as published by the Department of Central Management Services and approved by the Governor's Travel Control Board, except that out-of-state lodging and travel expenses related to examinations authorized under Section 132 of the Code [215 ILCS 5/132] shall be in accordance with travel rates prescribed under paragraph 301-7.2 of the Federal Travel Regulations, 41 CFR 301-7.2, for reimbursement of subsistence expenses incurred during official travel [215 ILCS 5/408(3)].

Section 2505.70 Financial Regulation Fee for Domestic Companies

An annual financial regulation fee shall be charged and collected from every domestic company for examination and analysis of its financial condition. The fee shall be the greater of the amount assessed by subsection (a) of this Section based on the combination of nationwide direct premium income and nationwide reinsurance assumed income of the domestic company, or by subsection (b) of this Section based on admitted assets.

- a) If the nationwide direct premium income of the domestic company is:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

- 1) Less than \$500,000 and there is no reinsurance assumed premium, the fee is \$100;
- 2) \$500,000 or more, but less than \$5,000,000 and there is no reinsurance assumed premium; or if the nationwide direct premium is less than \$5,000,000 and the reinsurance assumed premium is less than \$10,000,000, the fee is \$500;
- 3) Less than \$5,000,000 and the reinsurance assumed premium is \$10,000,000 or more, the fee is \$2,500;
- 4) \$5,000,000 or more, but less than \$10,000,000, the fee is \$5,000;
- 5) \$10,000,000 or more, but less than \$25,000,000, the fee is \$12,000;
- 6) \$25,000,000 or more, but less than \$50,000,000, the fee is \$15,000;
- 7) \$50,000,000 or more, but less than \$100,000,000, the fee is \$20,000; or
- 8) \$100,000,000 or more, the fee is \$25,000.
- b) If the admitted assets, as defined by Section 3.1 of the Code [215 ILCS 5/3.1], of the domestic company are:
 - 1) Less than \$1,000,000, the fee is \$100;
 - 2) \$1,000,000 or more, but less than \$5,000,000, the fee is \$500;
 - 3) \$5,000,000 or more, but less than \$25,000,000, the fee is \$2,500;
 - 4) \$25,000,000 or more, but less than \$50,000,000, the fee is \$5,000;
 - 5) \$50,000,000 or more, but less than \$100,000,000, the fee is \$12,000;
 - 6) \$100,000,000 or more, but less than \$500,000,000, the fee is \$15,000;
 - 7) \$500,000,000 or more, but less than \$1,000,000,000, the fee is \$20,000; or
 - 8) \$1,000,000,000 or more, the fee is \$25,000.
- c) The sum of financial regulation fees in any single calendar year charged to domestic companies of the same affiliated group shall not exceed \$100,000, in the aggregate, as calculated pursuant to subsection (c)(2) of this Section.
 - 1) By April 1st of every calendar year every affiliated group must notify the Department in writing to the attention of the Tax and Fiscal Section that the affiliated group intends to utilize this Section and must designate one member to be billed by the Director for the entire affiliated group's financial regulation fee.
 - 2) The sum of the financial regulation fees, in the aggregate, shall be calculated by totaling the amount of financial regulation fees paid by the domestic companies of the same affiliated group. No financial regulation fee paid by a foreign or alien company of the same affiliated group shall be included in the aggregate amount of the affiliated group's domestic companies' aggregate sum. Illustration A of this Part is an example of this calculation.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

- d) The financial regulation fee is due upon receipt of the Department's invoice and must be paid no later than June 30th of each calendar year.
- e) The domestic company must include the Department's invoice, if applicable, and make payment pursuant to 50 Ill. Adm. Code 2500.70(a).

Section 2505.80 Financial Regulation Fee for Foreign and Alien Companies

An annual financial regulation fee shall be charged and collected from every foreign or alien company, except fraternal benefit societies, for the examination and analysis of its financial condition. *The fee shall be a fixed amount based upon the Illinois direct premium income and nationwide reinsurance assumed premium income in accordance with the following schedule [215 ILCS 5/408(7)]:*

- a) If the Illinois direct premium is:

- 1) Less than \$500,000 and there is no reinsurance assumed premium, the fee is \$100;
- 2) \$500,000 or more, but less than \$5,000,000 and there is no reinsurance assumed premium; or if the Illinois direct premium is less than \$5,000,000 and the reinsurance assumed premium is less than \$10,000,000, the fee is \$500;
- 3) Less than \$5,000,000 and the reinsurance assumed premium is \$10,000,000 or more, the fee is \$2,500;
- 4) \$5,000,000 or more, but less than \$10,000,000, the fee is \$5,000;
- 5) \$10,000,000 or more, but less than \$25,000,000, the fee is \$12,000;
- 6) \$25,000,000 or more, but less than \$50,000,000, the fee is \$15,000;
- 7) \$50,000,000 or more, but less than \$100,000,000, the fee is \$20,000; or
- 8) \$100,000,000 or more, the fee is \$25,000.

- b) The sum of financial regulation fees in any single calendar year charged to foreign or alien companies within the same affiliated group shall not exceed \$100,000, in the aggregate, as calculated in subsection (b)(2) of this Section.

- 1) By April 1st of every calendar year every affiliated group must notify the Department in writing to the attention of the Tax and Fiscal Section that the affiliated group intends to utilize this Section and must designate one member of the group to be billed by the Director for the entire affiliated group's financial regulation fee.

- 2) The sum of the financial regulation fees, in the aggregate, shall be calculated by totaling the amount of financial regulation fees paid by the foreign or alien companies of the same affiliated group. No financial regulation fee paid by a domestic company of the same affiliated group shall be included in the aggregate amount of the affiliated group's foreign or alien companies' aggregate sum. Illustration B of this Part is an example of this

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

- calculation.
- 3) For purposes of calculating the retaliatory tax pursuant to 50 Ill. Adm. Code 2515, the foreign or alien affiliated group's financial regulation fee shall be allocated by determining the sum of the foreign or alien affiliated group's Illinois direct premiums by totaling each of the affiliated group's individual foreign or alien company's Illinois direct premiums. Do not include any domestic company's Illinois direct premium of the same affiliated group when determining the sum of the foreign or alien affiliated group's Illinois direct premiums. Divide the individual foreign or alien company's Illinois direct premiums by the sum of the foreign or alien affiliated group's Illinois direct premiums to determine that individual foreign or alien company's financial regulation fee allocation percentage. Multiply that individual company's allocation percentage by \$100,000 to determine the financial regulation fee paid for the company.

- c) The financial regulation fee is due upon receipt of the Department's invoice and must be paid no later than June 30th of each calendar year [215 ILCS 5/408(8)].

- d) The foreign or alien company must include the Department's invoice, if applicable, and make payment pursuant to 50 Ill. Adm. Code 2500.70(a).

Section 2505.90 Financial Examination Expenses and Fees

In addition to any financial regulation fee assessed pursuant to Sections 2505.70 and 2505.80 of this Part, the Director may charge the following costs and expenses incurred by the Department related to a financial examination: electronic data processing costs, the expenses authorized under Sections 131.21 and 132.4(d) of the Code [215 ILCS 5/131.21 and 132.4(d)], lodging and travel expenses pursuant to subsection (a) of this Section, and a per diem expense pursuant to subsection (b) of this Section if no financial regulation fee is paid pursuant to Sections 2505.70 and 2505.80 of this Part by the company.

- a) The travel and lodging expenses shall be calculated in accordance with the applicable travel regulations as published by the Department of Central Management Services and approved by the Governor's Travel Control Board, except that out-of-state lodging and travel expenses related to examinations authorized under Sections 132.1 through 132.7 of the Code [215 ILCS 5/132 through 132.7] shall be in accordance with travel rates prescribed under paragraph 301-7.2 of the Federal Travel Regulations, 41 CFR 301-7.2, for reimbursement of subsistence expenses incurred during official travel [215 ILCS 5/408(9)].

- b) The per diem charge shall be \$225 per examiner.

Section 2505.100 Payment Due Date of Fees and Charges

Any fee or charge assessed pursuant to this Part, in which a payment due date has not been established, must be paid within 30 days after receipt of the

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Department's invoice and must meet any filing requirements set forth by this Part, and payment must be made pursuant to 50 Ill. Adm. Code 2500.70(a).

Section 2505.110 Civil Penalties and Interest

Any company, person, or entity failing to make any payment of \$100 or more as required under Section 408 of the Code [215 ILCS 5/408], or this Part, shall be subject to the penalty and interest provisions of Section 412(4) and (7) of the Code [215 ILCS 5/412(4) and (7)] and will be assessed such penalties pursuant to 50 Ill. Adm. Code 2525.100(b).

Section 2505.120 Hearings

Any person or company required to pay a fee or charge pursuant to this Section may request a hearing to be held for the purposes of determining if the assessed fee or charge is appropriate. A request for hearing shall be made pursuant to the grounds set forth in Section 412 of the Code [215 ILCS 5/412], a mistake of fact, an error in calculation or an erroneous interpretation of a statute of this or any other state, and such request will only be granted based on those grounds. The hearing request shall be made pursuant to 50 Ill. Adm. Code 2500.50.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Section 2505.110 Illustration A Calculation of Financial Regulation Fee for Affiliated Domestic Companies

The following insurance companies are part of an affiliated group:

Company A is a domestic life company that owes a financial regulation fee of	\$20,000
Company B is a domestic property and casualty company that owes a financial regulation fee of	\$25,000
Company C is a domestic property and casualty company that owes a financial regulation fee of	\$20,000
Company D is a domestic mutual property and casualty company that owes a financial regulation fee of	\$25,000
Company E is a domestic mutual life company that owes a financial regulation fee of	\$25,000
Company F is a foreign life company with a financial regulation fee of	\$15,000

Pursuant to Section 2505.70(c)(2) of this Part, the domestic companies, in this example, companies A, B, C, D, and E, would total their financial regulation fees owed to determine if the amount of the domestic affiliated group's members' financial regulation fees are over \$100,000. If the amount is over \$100,000 the affiliated group must notify the Department by April 1 that it will be filing pursuant to Section 2505.70(c) of this Part and designate a member to pay the \$100,000 financial regulation fee.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Section 2505. ILLUSTRATION B Calculation of Financial Regulation Fee for Affiliated Foreign or Alien Companies

The following insurance companies are part of an affiliated group:

Company A is a foreign life company that owes a financial regulation fee of	\$20,000
Company B is a foreign property and casualty company that owes a financial regulation fee of	\$25,000
Company C is a foreign property and casualty company that owes a financial regulation fee of	\$20,000
Company D is a foreign mutual property and casualty company that owes a financial regulation fee of	\$25,000
Company E is a foreign mutual life company that owes a financial regulation fee of	\$25,000
Company F is a domestic life company with a financial regulation fee of	\$15,000

Pursuant to Section 2505.80(b)(2) of this Part, the foreign companies, in this example, companies A, B, C, D, and E, would total their financial regulation fees owed to determine if the amount of the foreign affiliated group's members' financial regulation fees are over \$100,000. If the amount is over \$100,000 the affiliated group must notify the Department by April 1 that it will be filing pursuant to Section 2505.80(b) of this Part and designate a member to pay the \$100,000 financial regulation fee.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

1) Heading of the Part: General Provisions2) Code Citation: 50 Ill. Adm. Code 2500

Section Numbers:	Proposed Action:
2500.10	New Section
2500.20	New Section
2500.30	New Section
2500.40	New Section
2500.50	New Section
2500.60	New Section
2500.70	New Section
2500.80	New Section

4) Statutory Authority: Implementing Sections 408, 409, 444 and 444.1 and authorized by Sections 401 and 409(5) of the Illinois Insurance Code [215 ILCS 5/401, 408, 409, 409(5), 444 and 444.1] (see P.A. 90-583, effective May 29, 1998) and Sections 12 and 13 of the Fire Investigation Act [425 ILCS 25/12 and 13].5) A Complete Description of the Subjects and Issues Involved: This Part has five main purposes concerning the payment of fees, charges and taxes collected by the State pursuant to Sections 408, 409, 444, and 444.1 of the Illinois Insurance Code [215 ILCS 5/408, 409, 444 and 444.1] and Section 12 of the Fire Investigation Act [425 ILCS 25/12]. These purposes are to define the terms used, establish mathematical calculations to be used in the different Parts of 50 Ill. Adm. Code Subchapter ee, provide the acceptable form of payment of fees, charges and taxes owed, and to set forth the process by which a company may request a hearing, how the hearing is to be conducted, and establish how to compute the time periods used in 50 Ill. Adm. Code Subchapter ee and when a filing will be considered "filed" by the Department.6) Will this proposed rule replace an emergency rule currently in effect? No7) Does this rule contain an automatic repeal date? No8) Does this proposed rule contain incorporations by reference? No9) Are there any other proposed amendments pending on this Part? No10) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

publication of this Notice to:

Chuck Feinen
Staff Attorney
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 557-1396

Denise Hamilton
Rules Unit Supervisor
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 785-8560

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: This new rule may affect all persons and businesses regulated by the Department.
- B) Reporting, bookkeeping or other procedures required for compliance:
Please see Sections 2500.50, 2500.70 and 2500.80 of this Part.

- C) Types of professional skills necessary for compliance: Clerical and accounting skills

13) Regulatory Agenda on which this Rule was summarized: July 1998

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ee: FEES, CHARGES AND TAXES

PART 2500
GENERAL PROVISIONS

Section	Purpose
2500.10	Applicability
2500.20	Severability
2500.30	Definitions
2500.40	Hearings
2500.50	Computation of Time and Time of Filing
2500.60	Form of Payment
2500.70	Calculation Guidelines
2500.80	

AUTHORITY: Implementing Sections 408, 409, 444 and 444.1 and authorized by Sections 401 and 409(5) of the Illinois Insurance Code [215 ILCS 5/401, 408, 409, 409(5), 444 and 444.1] (see P.A. 90-583, effective May 29, 1998) and Sections 12 and 13 of the Fire Investigation Act [425 ILCS 25/12 and 13].

SOURCE: Adopted at 22 Ill. Reg. _____, effective _____.

Section 2500.10 Purpose

This Part sets forth certain procedural requirements for hearings, filing requirements, definitions, and calculation guidelines concerning 50 Ill. Adm. Code, Subchapter ee Fees, Charges and Taxes.

Section 2500.20 Applicability

This Part applies to any person or company conducting or transacting any of the actions assessed a fee pursuant to Section 408 of the Illinois Insurance Code, or a tax pursuant to Sections 409, 444 and 444.1 of the Illinois Insurance Code [215 ILCS 5/408, 409, 444 and 444.1] (see P.A. 90-583, effective May 29, 1998) and Sections 12 and 13 of the Fire Investigation Act [425 ILCS 25/12 and 13].

Section 2500.30 Severability

If any Section, subsection, paragraph, sentence, clause, or phrase of this Part is declared invalid for any reason, the remaining portions of this Part that are severable from the invalid portion shall remain in full force and effect. If any portion of this Part is declared invalid in one or more of its applications, the remaining portion shall be severable and in effect in all valid applications.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Section 2500.40 Definitions

Except as stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part which are not defined below shall be the same as those used in the Illinois Insurance Code [215 ILCS 5].

Accident and Health Insurance means insurance against bodily injury, disablement or death by accident and against disablement resulting from sickness or old age and every insurance appertaining thereto, including stop-loss insurance covering such risks [215 ILCS 5/4(b)].

Affiliated Group means a group of companies affiliated, as of the preceding calendar year end, pursuant to Article VIII 1/2 entitled Insurance Holding Company Systems [215 ILCS 5/131.1 through 131.28].

Alien Company means a company which is incorporated or organized under the laws of any country other than the United States [215 ILCS 5/408(12)(c)].

Articles of Incorporation means the basic instrument of an incorporated company and all amendments thereto and includes "Charter," "Articles of Organization," "Articles of Reorganization," "Articles of Association," and "Deed of Settlement" [215 ILCS 5/2(p)].

Assessment Legal Reserve Life Company means a life insurance company issuing contracts providing for contingent liability on the policyholder [215 ILCS 5/2(j)].

Burial Society means a person, firm, corporation, society or association of individuals authorized by the Director to do business in this State under the provisions of Article XIX of the Illinois Insurance Code [215 ILCS 5/408(12)(f)].

Association Captive Insurance Company means any company that insures risks of either the member organizations of an association and/or their affiliated companies [215 ILCS 5/123C-1(C)].

Check means corporation check, money order or cashier's check.

Code means the Illinois Insurance Code.

Country or Foreign Country means a state, province or political subdivision thereof [215 ILCS 5/2(d)].

Company means an insurance or surety company and shall be deemed to include a corporation, company, partnership, association, society, organization, order, Risk Retention Group, individual or aggregation

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

of individuals engaging in or proposing or attempting to engage in any kind of insurance or surety business, including the exchanging of reciprocal or interinsurance contracts between individuals, partnerships and corporations [215 ILCS 5/2(e)].

Dental Service Plan means a plan or system under which dental service may be rendered to a subscriber or other beneficiary by a duly licensed dentist, at the expense of a dental service plan corporation, in consideration of prepayments made by or on behalf of a subscriber prior to the occurrence of the condition requiring dental service [215 ILCS 110/4].

Department means the Department of Insurance [215 ILCS 5/2(b)].

Director means the Director of Insurance [215 ILCS 5/2(a)].

Domestic Company means a company which is incorporated or organized under the laws of this State, and in addition includes a not-for-profit corporation authorized under the Dental or Voluntary Health Service Plan Acts, and a health maintenance organization or a limited health service organization [215 ILCS 5/408(12)(a)].

Domestic Surplus Line Insurer means any company as defined in Section 445a of the Code [215 ILCS 5/445a].

Farm Mutual means a district, county and township mutual insurance company authorized by the Director to do business in this State under the provisions of the Farm Mutual Insurance Company Act of 1986 [215 ILCS 5/408(12)(g)].

Foreign Company means a company which is incorporated or organized under the laws of any state of the United States other than this State and in addition includes a health maintenance organization or a limited health service organization which is incorporated or organized under the laws of any state of the United States other than this State [215 ILCS 5/408(12)(b)].

Fraternal Benefit Society means a corporation, society, order, lodge or voluntary association as defined in Section 282.1 of the Code [215 ILCS 5/282.1]. [215 ILCS 5/408(12)(d)]

Group Workers' Compensation Self-insurance Pooling Trust means any group organized pursuant to Section 4a of the Workers' Compensation Act [820 ILCS 305/4a].

Health Maintenance Organization means any organization formed under the laws of this or another state to provide or arrange for one or more health care plans under a system which causes any part of the

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

risk of health care delivery to be borne by the organization or its providers [215 ILCS 125/1-2].

Illinois Fair Plan means the basic property insurance pursuant to Section 522 of the Code [215 ILCS 5/522].

Illinois Guaranty Fund means the guaranty fund established pursuant to Article XXIV of the Code [215 ILCS 5/532 through 533].

Illinois Insurance Exchange (INEX Insurance Exchange) means the non-profit corporation organized pursuant to Section 107.26 of the Code [215 ILCS 5/107.26].

Illinois Life and Health Guaranty Association means the guaranty association established pursuant to Article XXIII 1/2 of the Illinois Insurance Code [215 ILCS 5/531.01 through 531.19].

Industrial Insured Captive Insurance Company means any company that insures risks of industrial insureds that are members of the industrial insured group, and their affiliated companies [215 ILCS 5/123C-1(G)].

Interstate Insurance Receivership Commission means the organization established pursuant to Article X of the Interstate Insurance Receivership Compact [45 ILCS 160].

Life and Health Guaranty Association assessment means any fees assessed against members of the Illinois Life and Health Guaranty Association pursuant to Section 531.09 of the Code [215 ILCS 5/531.09].

Limited Health Service Organization means any organization formed under the laws of this or another state to provide or arrange for one or more limited health care plans under a system which causes any part of the risk of limited health care delivery to be borne by the organization or its providers [215 ILCS 130/1002].

Mutual Benefit Association means a company, association or corporation authorized by the Director to do business in this State under the provisions of Article XVIII of the Code [215 ILCS 5/408(12)(e)].

Payor means the entity that actually pays the fee, charge and/or tax to the Department.

Person means an individual, aggregation of individuals, corporation, association and partnership [215 ILCS 5/2(1)].

Pure Captive Insurance Company means any company that insures only

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

risks of its parent or affiliated companies or both [215 ILCS 5/123c-1(L)].

Religious and Charitable Risk Pooling Trust means any number of organizations which are all exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1954 and are organized pursuant to the Religious and Charitable Risk Pooling Trust Act [215 ILCS 150].

Reinsurance means that form of insurance referenced in Article XI of the Code, entitled Reinsurance [215 ILCS 5/173 through 179].

Risk Purchasing Group means a group formed pursuant to the provisions of the federal Liability Risk Retention Act of 1986 and as defined in Section 123B-2(10) of the Code [215 ILCS 5/123B-2(10)].

Risk Retention Group means any corporation or association that is defined as a Risk Retention group pursuant to Section 123B-2(11) of the Code [215 ILCS 5/123B-2(11)].

Self-insurer means any person who bears a risk of loss in which such person has and maintains an insurable interest without sharing such risk of loss with any party who has no insurable interest in the subject of risk.

Special Purpose Entity means the Interstate Insurance Receivership Commission, Illinois Guaranty Fund, or Illinois Life and Health Guaranty Association.

State Fire Marshal Tax means the tax assessed pursuant to Sections 12 and 13 of the Fire Investigation Act [425 ILCS 25/12 and 13].

Statutory Residual Market Entity or an entity created for similar purpose means insurance obtained or offered through the following: Illinois Fair Plan, Mine Subsidence Fund [215 ILCS 5/803.1], Illinois Automobile Insurance Plan, Illinois Comprehensive Health Insurance Plan [215 ILCS 150/1 through 15], and Workers' Compensation Assigned Risk Pool.

Surplus Line means insurance on an Illinois risk of the kinds specified in classes 2 and 3 of Section 4 of the Code procured from an unauthorized company after the insurance producer representing the insured or the surplus line producer is unable, after diligent effort, to procure said insurance from companies which are authorized to transact business in this State [215 ILCS 5/445].

Surplus Line Producer means any licensed producer who is a resident of this State and has been licensed pursuant to Section 445(2) of the

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Code [215 ILCS 5/445(2)].

Voluntary Health Service Plan means either a plan or system under which medical, hospital, nursing and related health services may be rendered to a subscriber or beneficiary at the expense of a health services plan corporation, or any contractual arrangement to provide, either directly or through arrangements with others, dental care services to subscribers and beneficiaries [215 ILCS 165/2].

Section 2500.50 Hearings

Any person or company required to pay a fee, charge or tax pursuant to 50 Ill. Adm. Code, Subchapter ee may request a hearing to be held for the purposes of determining if the assessed fee, charge or tax is appropriate. A request for hearing must be made pursuant to the grounds set forth in Section 412 of the Code [215 ILCS 5/412] and subsection (b) of this Section. Such request will only be granted based on those grounds.

- a) A request for hearing shall be in writing and shall include:
 - 1) The name and address of the requester;
 - 2) The fee, charge or tax amount being assessed;
 - 3) Under what provision of 50 Ill. Adm. Code, Subchapter ee the fee, charge or tax is being assessed;
 - 4) The Department invoice number, if applicable; and
 - 5) The name, address and phone number of a contact person.
- b) The grounds upon which the requester believes the amount being assessed is incorrect, which are:
 - 1) A mistake of fact including, but not limited to:
 - A) Applying a previous year's income tax overpayment in the current year's tax return; and
 - B) Using the premium written in the state of incorporation to determine the state of incorporation's basis for retaliatory tax purposes; or
 - 2) An error in calculation including, but not limited to:
 - A) An incorrect decimal assignment; and
 - B) An erroneous sum, result or total arising out of a mathematical function, operation or equation; or
 - 3) An erroneous interpretation of a statute or regulation of this or any other state, including, but not limited to:
 - A) A misapplication of the statute or regulation;
 - B) A misunderstanding of an equivocal term or phrase used in the statute.
 - 4) However, an erroneous interpretation of a statute of this or any other state does not include a finding of unconstitutionality of the statute in question. Additionally, a mistake in fact shall not include the assertion that a statute is unconstitutional on its face.
- c) Any hearing held pursuant to a request meeting the requirements of this Section will be conducted pursuant to the provisions set forth at

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

50 Ill. Adm. Code 2402. However, if the request is made by a company, the company must be represented by an attorney licensed to practice law in the State of Illinois. The provision at 50 Ill. Adm. Code 2402.70(a)(2) does not apply to hearings held pursuant to 50 Ill. Adm. Code, Subchapter ee.

Section 2500.60 Computation of Time and Time of Filing

- a) Computation of Time. The time within which any act provided by law is to be done, or the payment due date, shall be computed by excluding the first day and including the last, unless the last day is a Saturday or Sunday or is a holiday as defined or fixed in any statute now or hereafter in force in this State, and then it shall also be excluded. If the day succeeding such Saturday, Sunday or holiday is also a holiday or a Saturday or Sunday then such succeeding day shall also be excluded.
- b) Time of Filing. Documents shall be considered filed or received, as set forth in subsections (b)(1) and (2) of this Section, when they are in conformance with the requirements of this Part and any other filing requirements specifically set out in the other Parts of 50 Ill. Adm. Code Subchapter ee.
 - 1) If filed in person, by messenger service or mail delivery other than U.S. Postal Service, documents are considered filed when they are received by the Department. Documents received by the Department after 12:00 p.m. shall be considered received on the following business day.
 - 2) If filed by U.S. Mail, documents are deemed filed as of the date of the U.S. postmark.

Section 2500.70 Form of Payment

- a) The payment of fees or charges shall be made by separate check for each invoice issued by the Department pursuant to Section 408 of the Code [215 ILCS 5/408] and 50 Ill. Adm. Code 2505.
- b) The payment of taxes owed pursuant to Sections 409, 444, and 444.1 of the Code [215 ILCS 5/409, 444 and 444.1] and Section 12 of the Fire Investigation Act [425 ILCS 25/12] shall be made by the payor by separate check for each company and for each tax return.
- c) All tax returns required pursuant to 50 Ill. Adm. Code, Subchapter ee, must be signed by an officer of the company, or by the surplus line producer, or an officer of the Illinois Fair Plan, as may be appropriate for that tax return.
- d) Cash shall not be sent as payment for any fee, charge or tax owed pursuant to 50 Ill. Adm. Code, Subchapter ee.

Section 2500.80 Calculation Guidelines

- a) All calculations made pursuant to 50 Ill. Adm. Code, Subchapter ee

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

shall be rounded to whole numbers by rounding down if the first decimal place is five or less and rounding up otherwise.

- b) For all calculated amounts owed pursuant to 50 Ill. Adm. Code, Subchapter ee, a whole dollar amount shall be reported and any amount calculated should be rounded down if \$0.50 or less, and rounded up otherwise.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Overpayments, Refunds, Amendments and Penalties

- 2) Code Citation: 50 Ill. Adm. Code 2525

- 3) Section Numbers:

2525.10	<u>Proposed Action:</u>
2525.20	New Section
2525.30	New Section
2525.40	New Section
2525.50	New Section
2525.60	New Section
2525.70	New Section
2525.80	New Section
2525.90	New Section
2525.100	New Section
2525.110	New Section
2525.Illustration A	New Section

- 4) Statutory Authority: Implementing Section 412 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401 and 412].

- 5) A Complete Description of the Subjects and Issues Involved: This Part provides the procedures by which an overpayment of taxes paid may be used and how such established overpayment may be transferred. It also sets forth the requirements for filing an amended return and the possible penalties that could be assessed for failure to make timely payment of fees, charges or taxes. This Part has one illustration and it describes the information required in the Notice of transfer of overpayments required by this Part.

- 6) Will this proposed rule replace an emergency rule currently in effect? No

- 7) Does this rule contain an automatic repeal date? No

- 8) Does this proposed rule contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

- 11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Chuck Feinen

Denise Hamilton

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Staff Attorney
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 557-1396

Rules Unit Supervisor
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 785-8560

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: This new rule may affect all persons and businesses regulated by the Department.
- B) Reporting, bookkeeping or other procedures required for compliance:
Please see Sections 2525.50, 2525.60, 2525.70, 2525.80 and 2525.90.
- C) Types of professional skills necessary for compliance: Clerical and accounting skills.

13) Regulatory Agenda on which this rule was summarized: July 1998

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ee: FEES, CHARGES AND TAXES

PART 2525

OVERPAYMENTS, REFUNDS, AMENDMENTS AND PENALTIES

Section

2525.10 Purpose

2525.20 Applicability

2525.30 Severability

2525.40 Definitions

2525.50 Overpayments Concerning the Annual Privilege and Retaliatory Tax

2525.60 Overpayments for All Other Fees, Charges or Taxes

2525.70 Amended Returns

2525.80 Cash Refund of Overpayment

2525.90 Transfer of Overpayments

2525.100 Penalty Assessment

2525.110 Hearings

ILLUSTRATION A Notice of Transfer of Overpayment

AUTHORITY: Implementing Section 412 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401 and 412].

SOURCE: Adopted at 22 Ill. Reg. _____, effective _____.

Section 2525.10 Purpose

This Part sets forth certain procedural requirements for the amendment of tax returns, clarifies the establishment and use of overpayments and refunds, and sets forth the penalties pursuant to Section 412 of the Illinois Insurance Code [215 ILCS 5/412] for the failure to file a return, for late filings and for filing insufficient payments.

Section 2525.20 Applicability

This Part applies to any company, Illinois Fair Plan or surplus line producer that has paid, or is required to pay, to the Director taxes, fees or charges pursuant to Sections 408, 409, 444 and 444.1 of the Code [215 ILCS 5/408, 409, 444 and 444.1] and Section 12 of the Fire Investigation Act [425 ILCS 25/12].

Section 2525.30 Severability

If any Section, subsection, paragraph, sentence, clause, or phrase of this Part is declared invalid for any reason, the remaining portions of this Part that are severable from the invalid portion shall remain in full force and effect. If any portion of this Part is declared invalid in one or more of its

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

applications, the remaining portion shall be severable and in effect in all valid applications.

Section 2525.40 Definitions

Except as stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part shall be the same as those used in 50 Ill. Adm. Code 2500.40 and the Illinois Insurance Code [215 ILCS 5].

Section 2525.50 Overpayments Concerning the Annual Privilege and Retaliatory Tax

a) Overpayments can be created, if the requirements of this Part are met, by the following:

- 1) Upon the filing of an annual privilege or retaliatory tax return showing overpayments, the Department will make an adjustment to the current balance of the privilege or retaliatory tax account;
 - 2) Pursuant to the filing of an amended privilege or retaliatory tax return in accordance with Section 2525.70 of this Part, the Department will issue an invoice adjustment showing the overpayment amount and will make an adjustment to the current balance of the privilege or retaliatory tax account; and
 - 3) In connection with the Department conducting an audit in which the result is an overpayment, the Department will issue an invoice adjustment showing the overpayment amount and will make an adjustment to the current balance of the privilege or retaliatory tax account.
- b) All overpayments created pursuant to subsection (a) of this Section must result from the following:
- 1) A mistake of fact including, but not limited to:
 - A) Applying a previous year's income tax overpayment in the current year's tax return; and
 - B) Using premium written in the state of incorporation to determine the state of incorporation's basis for retaliatory tax purposes; or
 - 2) An error in calculation including, but not limited to:
 - A) An incorrect decimal assignment; and
 - B) An erroneous sum, result or total arising out of a mathematical function, operation or equation; or
 - 3) An erroneous interpretation of a statute or regulation of this or any other state, including, but not limited to:
 - A) A misapplication of the statute or regulation;
 - B) A misunderstanding of an equivocal term or phrase used in the statute.
 - 4) However, an erroneous interpretation of a statute of this or any other state does not include a finding of unconstitutionality of the statute in question. Additionally, a mistake in fact shall not include the assertion that a statute is unconstitutional on

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

its face.

- c) Upon notice to the company, the Department reserves the right to adjust all overpayments created pursuant to this Section if upon verification and audit the stated overpayment is incorrect and/or not the result of a mistake of fact, error in calculation, or an erroneous interpretation of a statute or regulation of this or any other state. The company may request a hearing pursuant to Section 2525.110 of this Part for the purpose of determining the correct amount of the adjustment.
- d) Overpayments pursuant to this Section can only be used to offset future retaliatory or privilege tax and can be transferred pursuant to Section 2525.90 of this Part. However, the transferred overpayment may only be used to offset future retaliatory and privilege tax. Alternatively, a cash refund of the overpayment may be considered by the Director pursuant to a request as set forth in Section 2525.80 of this Part.
- e) Upon written notice to the company at its last known address any overpayment that is not used and is not transferred will be considered as a voluntary payment and removed from the Department's records after 10 years.

Section 2525.60 Overpayments for All Other Fees, Charges or Taxes

Upon a written request to the attention of the Tax and Fiscal Section of the Department, which includes information supporting the request to change the amount assessed by the Department's invoice and a copy of the Department's invoice, or upon an amended return filed pursuant to Section 2525.70 of this Part, or as a result of an audit, if it appears to the satisfaction of the Director that there has been an overpayment of the amount legally chargeable pursuant to Section 408 of the Code [215 ILCS 5/408] or Section 12 of the Fire Investigation Act [425 ILCS 25/12], the Department will issue a letter of credit for an overpayment. Any written request or amended return must be based on a mistake of fact, error in calculation, or erroneous interpretation of a statute of this or any other state, during the 6 year period immediately preceding the discovery of such overpayment [215 ILCS 5/412]. For purposes of this Section:

- a) A mistake of fact includes, but is not limited to:
 - 1) Applying a previous year's income tax overpayment in the current year's tax return; and
 - 2) Using premium written in the state of incorporation to determine the state of incorporation's basis for retaliatory tax purposes; or
- b) An error in calculation includes, but is not limited to:
 - 1) An incorrect decimal assignment; and
 - 2) An erroneous sum, result or total arising out of a mathematical function, operation or equation; or
- c) An erroneous interpretation of a statute or regulation of this or any other state, including, but not limited to:

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

The Department, without the claimant obtaining a budget appropriation for the Department equal to the amount of the alleged overpayment, cannot provide a cash refund for an overpayment pursuant to Section 412 of the Code [215 ILCS 5/412] and Section 2525.50 of this Part unless the overpayment was part of a protested payment pursuant to the State Officers and Employees Disposition Act [30 ILCS 230]. A cash refund of an overpayment pursuant to Section 2525.60 of this Part may be possible if there is a budget appropriation already established for the Department by which overpayments may be refunded. Alternatively, refund relief may be possible through the Illinois Court of Claims or by transferring the overpayment pursuant to Section 2525.90 of this Part.

Section 2525.90 Transfer of Overpayments

An overpayment allowable pursuant to Sections 2525.50 and 2525.60 of this Part may be transferred in whole or in part to another company upon written approval of the Director. The company that made the payment creating the overpayment pursuant to this Part must file with the Department a written "Notice of Transfer of Overpayment" as set forth in Illustration A of this Part. The Notice of Transfer of Overpayment shall include the following information:

- a) The company's name that is transferring the overpayment, including that company's Federal Employee Identification Number (FEIN);
- b) The amount of the overpayment being transferred;
- c) The name of the company and the company's Federal Employee Identification Number (FEIN) to which the transfer is being made;
- d) A copy of a letter of credit(s) or invoice(s) issued, if any, pursuant to Section 2525.50 or 2525.60 of this Part for the overpayment which is being transferred;
- e) The monetary amount, if any, exchanged between the entities; and
- f) A certification of the officer of the company that the provided information in the Notice of Transfer of Overpayment is true and accurate to the best of their knowledge.

Section 2525.100 Penalty Assessment

- a) When the Illinois Fair Plan, insurance company or surplus line producer fails to file any tax return or pay the full amount required under 50 Ill. Adm. Code 2510, 50 Ill. Adm. Code 2515, 50 Ill. Adm. Code 2520, and Section 409, 444, 444.1 or 445 of this Code [215 ILCS 5/409, 444, 444.1 or 445], or Section 12 of the Fire Investigation Act [425 ILCS 25/12] on the date prescribed, the following assessment may be made:
 - 1) There shall be added as a penalty \$200 or 5% of the amount of such tax, whichever is greater, for each month or part of a month of failure to file a return even if no tax is owed, the entire penalty not to exceed \$1,000 or 25% of the tax due, whichever is greater;
 - 2) When any insurance company or any surplus line producer fails to

Section 2525.80 Cash Refund of Overpayment

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

- 1) A misapplication of the statute or regulation;
- 2) A misunderstanding of an equivocal term or phrase used in the statute.
- d) However, an erroneous interpretation of a statute of this or any other state does not include a finding of unconstitutionality of the statute in question. Additionally, a mistake in fact shall not include the assertion that a statute is unconstitutional on its face.
- e) Overpayments pursuant to this Section may only be used to offset the same type of tax, charge or fee in which the overpayment was made, may be transferred pursuant to Section 2525.90 of this Part. However, the transferred overpayment may only be used to offset the same type of tax, charge or fee in which the overpayment was made. Alternatively, a cash refund of the overpayment may be considered by the Director pursuant to a request as set forth in Section 2525.80 of this Part.
- f) Overpayments made pursuant to this Section for which the underlying tax, fee or charge has been prospectively repealed may be used to offset any tax owed pursuant to Section 409 of the Code [215 ILCS 5/409] and may be transferred pursuant to Section 2525.90 of this Part. Transferred overpayments in which the underlying tax has been prospectively repealed may be used to offset any tax owed pursuant to Section 409 of the Code [215 ILCS 5/409].
- g) Upon written notice to the company, at its last known address, any overpayment that is not used and is not transferred will be considered as a voluntary payment and removed from the Department's records after 10 years.

Section 2525.70 Amended Returns

Any company, Illinois Fair Plan, or surplus line producer may file an amended return with the Department. An amended return shall be made by filing an original return which shows the amendments and includes explanations for those amendments. A copy of the original return shall be included with the amended return. Amended returns will only be allowed if it appears to the satisfaction of the Director that because of some mistake of fact, error in calculation, or erroneous interpretation of a statute of this or any other state, anyone has paid in excess of the amount legally chargeable against it, during the 6 year period immediately preceding the discovery of such overpayment [215 ILCS 5/412]. Adjustments (e.g., cash refunds or additional cash payments, of prior income or fire department taxes paid) shall be accounted for in the year of the adjustment and shall not be the basis for amending a previous privilege or retaliatory tax return. Furthermore, any overpayment adjustment requested for the amount of fire department taxes or income taxes paid cannot exceed the amount of privilege or retaliatory tax owed in the year the income or fire department tax was paid for which the overpayment adjustment is now being sought.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

pay the full amount due under the provisions of 50 Ill. Adm. Code 2510, 50 Ill. Adm. Code 2515, 50 Ill. Adm. Code 2520, and Section 408.1, 409, 444, 444.1 or 445 of this Code [215 ILCS 5/408.1, 409, 444, 444.1 or 445], or Section 12 of the Fire Investigation Act [425 ILCS 25/12] the following penalties may be assessed:

- A) There shall be added to the amount due as a penalty an amount equal to 5% of the deficiency; and
- B) If such failure to pay is determined by the Director to be willful, after a hearing held pursuant to 50 Ill. Adm. Code 2500.50 and 50 Ill. Adm. Code 2402 and Sections 402 and 403 of the Code [215 ILCS 5/402 and 403], there shall be added to the tax as a penalty an amount equal to the greater of 25% of the deficiency or 5% of the amount due and unpaid for each month or part of a month that the deficiency remains unpaid commencing with the date that the amount becomes due.

Such amount shall be in lieu of any amount determined under subsection (a)(2)(A) of this Section; and

- 3) In addition to subsections (a)(1) and (2) of this Section the Illinois Fair Plan, insurance company or any surplus line producer which fails to pay the full amount due under this 50 Ill. Adm. Code 2510, 50 Ill. Adm. Code 2515, 50 Ill. Adm. Code 2520, and Sections 409, 444, 444.1 or 445 of this Code [215 ILCS 5/409, 444, 444.1 or 445], or Section 12 of the Fire Investigation Act [425 ILCS 25/12], in addition to the tax and any penalties, for interest on such deficiency at the rate of 12% per annum, or at such higher adjusted rates as are or may be established under subsection (b) of Section 6621 of the Internal Revenue Code (26 USCS 6621(b)), from the date that payment of any such tax was due, determined without regard to any extensions, to the date of payment of such amount.

- 4) Adjustments to any tax return that do not result in the payment of additional taxes to this State will not subject the Illinois Fair Plan, insurance companies, or surplus line producers to penalties or interest under this Section unless found to be willful under subsection (a)(2)(B) of this Section.

- b) When an insurance company or affiliated group fails to pay the full amount of any fee or charge of \$100 or more due under 50 Ill. Adm. Code 2505 and Section 408 of the Code [215 ILCS 5/408], there may be added to the amount due as a penalty the greater of \$50 or an amount equal to 5% of the deficiency for each month or part of a month that the deficiency remains unpaid. In addition to the fee or charge, interest on such deficiency shall be assessed at the rate of 12% per annum, or at such higher adjusted rates as are or may be established under subsection (b) of Section 6621 of the Internal Revenue Code (26 USCS 6621(b)), from the date that payment of any such fee or charge was due to the date of payment of such amount may be also added.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Any person or company required to pay a fee, charge or tax pursuant to Subchapter ee may request a hearing to be held for the purposes of determining if the assessed fee, charge or tax is appropriate or adjustment to accredited overpayment pursuant to Section 2525.50(c) of this Part is correct. A request for hearing shall be made pursuant to the grounds set forth in Section 412 of the Code [215 ILCS 5/412], a mistake of fact, an error in calculation or an erroneous interpretation of a statute of this or any other state, and such request will only be granted based on those grounds. The hearing request shall be made pursuant to 50 Ill. Adm. Code 2500.50.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Section 2525. ILLUSTRATION A Notice of Transfer of Overpayment

NOTICE OF TRANSFER
OF OVERPAYMENT

Federal Employer Identification Number (FEIN) _____ Company Transferring Overpayment

By the _____ Insurance Company
Name of Company Transferring Overpayment

Street and Number _____ City _____ State _____ Zip Code _____

The overpayment amount being transferred _____

Name of Company Receiving the Overpayment _____

Federal Employer Identification Number (FEIN) _____ Company Receiving the Overpayment

The monetary amount exchanged for the overpayments transferred _____

I, _____, do hereby certify that, to the best of my knowledge, the matters asserted in this Notice of Transfer are true and correct.

Signature of an Officer of the Company Transferring the Overpayment _____

I, _____, do hereby certify that, to the best of my knowledge, the matters asserted in this Notice of Transfer are true and correct.

Signature of an Officer of the Company Receiving the Overpayment _____

Do not forget to attach a copy of the letter of credit(s) or invoice(s) if issued pursuant to 50 Ill. Adm. Code 2525.50 and 2525.60 for the overpayment which is being transferred.

Internal Department Use Only _____

Date Transfer was completed _____

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Child Support Enforcement2) Code Citation: 89 Ill. Adm. Code 160

<u>Section Numbers:</u>	<u>Proposed Action:</u>
160.10	Amendment
160.20	Amendment
160.60	Amendment
160.61	Amendment
160.65	Amendment
160.70	Amendment
160.75	Amendment
160.88	New Section
160.110	Amendment
160.130	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]; Public Act 90-790; Public Law 104-193; and Public Law 105-33.5) A Complete Description of the Subjects and Issues Involved: These proposed amendments to the Department's administrative rules concerning child support enforcement are required for compliance with federal requirements under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and the Balanced Budget Act of 1997, and implementation of program changes pursuant to Public Act 90-790. The amendments include the following changes:Assignment of Rights to Support

These proposed amendments provide that for an assignment entered prior to October 1, 1998, the applicant assigns to the Department all support that accrued prior to receiving public assistance, and all support that accrues during such assistance. For assignments entered into on or after October 1, 1998, support accrued during an applicant's receipt of assistance is assigned to the Department regardless of the method by which such support is collected. However, for such assignments entered into on or after October 1, 1998, support accrued before receipt of assistance is assigned to the Department only until the family ceases to receive assistance if that support is collected by a method other than federal income tax refund offset. The total amount of support assigned cannot exceed the cumulative amount of assistance provided during all periods of assistance.

Administrative Support and Paternity Process

These proposed changes provide the client with an appeal right regarding the Department's administrative paternity and support orders (currently, only the non-custodial parent can appeal such orders), and allow for

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

petitions to vacate administrative orders by either party. The changes also provide for the serving of administrative orders on the non-custodial parent by regular mail; allow the Department to register another state's order administratively for purposes of enforcement and modification under the Uniform Interstate Family Support Act; provide that administrative process cases may be transferred within the State without the need to re-petition or reacquire jurisdiction; and provide for the treatment of foreign child support orders as Title IV-D child support cases.

High Volume, Automated Administrative Enforcement in Interstate Cases

These proposed changes regarding high volume, automated administrative enforcement in interstate cases are required by PRWORA and the federal Balanced Budget Act. The changes require Illinois to respond to requests from other states to use lien and levy and financial institution data match to collect from assets in this State and require Illinois to make such requests to other states.

Fraudulent Transfers

These proposed amendments clarify current language in the rules concerning the voiding of fraudulent transfers done to evade payment of child support.

Income Withholding

Proposed amendments on income withholding to secure payment of support add a definition on "business day" in accordance with PRWORA's definition. The changes also require Income Withholding Notices (IWN) served on employers to contain the signature of the obligee or printed name and phone number of the public office serving the IWN and require IWN to contain date of entry of underlying order for support. Further changes require that when IWN is served on the payor of income, a copy with proof of service must be filed with the circuit clerk and will delete the requirement that the IWN contain a computation of the delinquency.

State Case Registry

These proposed amendments establish an automated State Case Registry to contain records concerning child support orders. The Registry will contain extensive information about cases, children, support orders and payments for all IV-D cases and support order information for all non-IV-D orders entered on or after October 1, 1998.

Distribution of Support for Former Recipients

These changes provide that collections made by the Department representing current support payable to a former recipient family prior to receipt of

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

assistance shall be paid to the former assistance family unless the collection was made through federal income tax offset.

Distribution of Intercepted Federal Income Tax Refunds

These changes conform with the provisions concerning assignment of support rights and amounts collected by federal income tax refund offset.

BUDGETARY EFFECT

There will be some increase in expenditures related to increased numbers of hearings as a result of allowing IV-D clients to appeal paternity and support decisions. However, the actual budgetary impact cannot be determined at this time.

The anticipated budgetary impact of the State Case Registry provisions for fiscal year 1999 is approximately \$500,000 for system modifications.

The potential budgetary impact on the Child Support Enforcement Trust Fund resulting from these proposed changes includes the cost of system modifications due to changes in the child support distribution process and a reduction in assigned support monies that will be due the Department under the new assignment rules, thereby reducing retained TANF collections. The Department anticipates a cost of \$500,000 for this system modification in fiscal year 1999. The extent of loss concerning the decrease in assigned support monies is not known at this time.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones
Bureau of Rules and Regulations
Illinois Department of Public Aid
201 South Grand Ave. E., 3rd Floor

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

Springfield, Illinois 62763
217/524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments which appears in this issue of the Register on page 17046

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Practice in Administrative Hearings

2) Code Citation: 89 Ill. Adm. Code 104

3) Section Numbers: Proposed Action:
104.100 Amendment
104.101 Amendment
104.102 Amendment
104.105 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 90-790

5) Complete Description of the Subjects and Issues Involved: These proposed amendments to the Department's administrative rules concerning hearing procedures related to child support enforcement are required for the implementation of program changes pursuant to Public Act 90-790.

The proposed changes to Sections 104.100, 104.101 and 104.102 will provide parents (IV-D clients) with appeal rights concerning administrative paternity and support orders, thereby allowing the right to request relief and the same procedural safeguards that are currently provided non-custodial parents.

Section 104.105 is being revised to clarify the evidentiary standards for reviewing petitions for relief from administrative paternity orders. The new provisions specify that a successful petitioner must prove a meritorious defense and provide clear and convincing evidence. These proposed changes are intended to more closely track relief available from final judgments in civil judicial cases. The relief allowed by these changes will be available only to the extent permitted under Section 2-1401 of the Civil Practice Law.

These changes regarding administrative support hearings are expected to result in some increase in expenditures due to an increased number of hearings to appeal administrative paternity and support decisions, but the actual budgetary impact cannot be determined at this time.

6) Will these proposed amendments replace emergency amendments currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

not affect units of local government.

- 11) Time, Place, and Manner in which Interested Persons may comment on this Proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones
Bureau of Rules and Regulations
Illinois Department of Public Aid
201 South Grand Ave. E.
3rd Floor
Springfield, Illinois 62763

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5- 40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 B) Reporting, bookkeeping or other procedures required for compliance: None
 C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments which appears in this issue of the Register on page 17113 :

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Literacy Grant Program

- 2) Code Citation: 23 Ill. Adm. Code 3040

- 3) Section Numbers: Proposed Action:
 3040.130 Amendment
 3040.140 Amendment
 3040.150 Amendment
 3040.160 Amendment
 3040.170 Amendment
 3040.200 Amendment
 3040.210 Amendment
 3040.220 Amendment
 3040.230 Amendment
 3040.240 Amendment

- 4) Statutory Authority: Implementing and authorized by the State Library Act [15 ILCS 320] and the Illinois Literacy Act [15 ILCS 322].

- 5) A Complete Description of the Subjects and Issues Involved: Suggested changes reflect:

- A. Limiting use of funds to programs providing service to adult students;
 B. Changing relative value of selection criteria for recommending funding;
 C. Strengthening the reporting requirements for subsequent funding;
 D. Giving the State Library the authority to require audits if interim financial reports or the monitor's evaluation shows cause for such an audit;
 E. Designating the Illinois State Library as owner of equipment purchased under the grant program for a two-year time period; and
 F. Allow use of workplace literacy funds for programs impacting prospective employees as well as current employees.

- 6) Will these proposed amendments replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? Yes

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: Changes reflect Literacy Advisory Board and Literacy Office staff objectives that make funded programs more responsible to the Illinois State Library for providing quality literacy programs that serve the changing needs of adult literacy students. Program performance becomes the primary criteria for funding

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

recommendations. At the Literacy Advisory Board's request, Literacy Office staff and grant monitors' reports on funded programs are taken into consideration for future funding. Changes also reflect recent legislation (P.A. 90-0783) allowing the workplace literacy grant monies to be used for prospective, as well as current, employees.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments and questions should be mailed, faxed, or sent electronically within forty-five (45) days after publication of the proposed amendments in the *Illinois Register* to:

Ms. Kathleen L. Bloomberg
Associate Director for Communications & Planning
Illinois State Library
300 S. Second Street
Springfield IL 62701-1796
217/785-0052
217/782-8261 FAX
kbloom@library.sos.state.il.us INTERNET

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Not-for-profit literacy organizations
- B) Reporting, bookkeeping or other procedures required for compliance: Financial reporting requirements are less detailed, although the grant recipients still need to keep thorough financial records.
- C) Types of professional skills necessary for compliance: Not applicable

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendments begins on the next page:

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE B: CULTURAL RESOURCES
CHAPTER I: SECRETARY OF STATE

PART 3040
LITERACY GRANT PROGRAM

SUBPART A: LITERACY PROVIDER PROGRAM

Section	Purpose
3040.100	Definitions
3040.110	Application for Grant
3040.120	Review of Grant Applications
3040.130	Award of Grants and Recordkeeping
3040.140	Cancellation of Grant
3040.150	Fiscal Audit Procedures
3040.160	Other Requirements
3040.170	Invalidity
3040.180	

SUBPART B: WORKPLACE LITERACY PROGRAM

Section	Purpose
3040.200	Definitions
3040.210	Application for Grant
3040.220	Review of Grant Applications
3040.230	Award of Grant, Financial Reports, and Program Progress Reports
3040.240	Cancellation of Grant
3040.250	Other Requirements
3040.260	Invalidity
3040.270	

SUBPART C: FAMILY LITERACY PROGRAM

Section	Purpose
2040.300	Definitions
2040.310	Eligible Applicants
2040.320	Grant Applications
2040.330	

AUTHORITY: Implementing and authorized by the State Library Act [15 ILCS 320] and the Illinois Literacy Act [15 ILCS 322].

SOURCE: Emergency rules adopted at 9 Ill. Reg. 15563, effective October 2, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 4916, effective March 11, 1986; amended at 11 Ill. Reg. 17258, effective October 15, 1987; amended at 15 Ill. Reg. 18757, effective December 17, 1991; amended at 16 Ill. Reg. 13084,

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

effective August 15, 1992; amended at 17 Ill. Reg. 7234, effective May 10, 1993; amended at 18 Ill. Reg. 4990, effective March 9, 1994; amended at 20 Ill. Reg. 5889, effective April 9, 1996; amended at 21 Ill. Reg. 2408, effective February 3, 1997; amended at 21 Ill. Reg. 11767, effective August 11, 1997; amended at 22 Ill. Reg. _____, effective _____.

SUBPART A: LITERACY PROVIDER PROGRAM

Section 3040.130 Review of Grant Applications

- a) The LAB shall review all grant applications which are designed to deliver direct instructional service in literacy to adult students.7 provide--support--services--to--literacy--projects--providing---direct instruction--in--literacy--to--adult--students--or--to--provide--training--coeducation--and--management--of--volunteers--who--will--deliver--or--assist in--delivering--direct--instruction--in--literacy--to--adult--students--or--any combination--of--one--or--more--of--these--objectives.
- b) The LAB will use the following selection criteria:
 - 1) Whether the need for literacy services in the community is demonstrated and how the applicant has addressed the need.
 - 2) Whether the extent of cooperation and coordination by the grant applicant of its program with similar programs provided by other organizations in the community is clearly stated.
 - 3) Whether the plan of operation contains a specific statement of project goals and objectives, the methods used to achieve these goals and objectives, the number of students to be served, and the number of administrative and instructional personnel necessary to serve the targeted student population.
 - 4) Whether the proposed budget is reasonable in view of the proposed goals of the project, and the budget is adequate to support the project.
 - 5) Whether the proposed project contains evaluation methods and procedures which will produce quantifiable data regarding pre- and post-testing of students to evaluate student progress, record-keeping procedures for students, and volunteer participation.
 - 6) Whether the persons managing the project have experience, training or education to combat illiteracy, and how much time will be spent by these managers on the project, including at least a bachelor's degree and prior experience in the field of education or management.
 - 7) What plans are presented in the grant application to continue the project after the grant funds have been expended.

- c) The criteria listed in subsection (b) of this Section will be evaluated and assigned point value by the LAB. The highest priority and point value will be assigned to subsections--(b)(2),--(b)(3),--and (b)(5)--which will have point values of ten each--Subsections--(b)(1), (b)(4),--(b)(6),--and--(b)(7)--above--will have point values of five each.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- d) The LAB shall not select any grant application nor award any public funds to any grant applicant which:
 - 1) Does not certify or state that it will comply with the Illinois Human Rights Act (4311--Rev--Stat--19917--ch--607--par--1101--et seq--7 [775 ILCS 5/1-101-et-seq-1].
 - 2) Users as its staff or management personnel persons who have been convicted of any felonies involving moral turpitude, embezzlement, theft, sexual offense, fraud, and misrepresentation under laws of the United States, Illinois, or any other state, or have been convicted of bribery in violation of Section 10.1 of the Illinois Purchasing Act (4311--Rev--Stat--19917--ch--127--par--132-10-1) [30 ILCS 505/10-1].
 - 3) Has as its managers employees of the Office of the Secretary of State.
 - 4) Has been disqualified and has its grant cancelled in previous years for false application statements, failure to adhere to the grant plan as approved by LAB, failure to complete reporting requirements satisfactorily, misappropriation of funds, or any violation of this Part as determined by the Secretary.
- e) The LAB shall not award more than one grant under Subpart A of this Part to any one applicant in the same fiscal year.

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

Section 3040.140 Award of Grants and Recordkeeping

- a) The LAB will make a recommendation to the Secretary of State as to which grant applications shall be approved, and the amount of public funds to be awarded to fund each grant application based upon the criteria in Section 3040.130.
- b) The LAB shall make its recommendations on December 1 for Fiscal Year 1986 and July 1 for Fiscal Year 1987 and thereafter.
- c) The Secretary of State shall make his or her final decision upon each recommendation as soon as possible within 60 days after the recommendation is presented to the Secretary. The Secretary of State shall approve or disapprove the recommendations of the LAB based upon whether the Secretary determines the recommendations to be consistent with the Act and the rules of this Part.
- d) The final approved grant applications and the funding determination shall constitute the Literacy Provider Grant Program, which shall be a public record, as shall be the grant applications, whether approved or not, and shall be subject to disclosure pursuant to the Freedom of Information Act (4311--Rev--Stat--19917--ch--116--pars--201-et-seq--7 [5 ILCS 140/1-et-seq-7] and the rules of the Secretary of State found at 2 Ill. Adm. Code 551.
- e) Approved grant applicants shall submit to the State Library, Office of the Secretary of State, such reports as deemed necessary by the

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

Literacy Advisory Board and Illinois State Library staff to assure project accountability. At least quarterly each fiscal year:

1) A quarterly financial report which shall state the amount of money expended to date in each line item of the approved program budget;

2) A quarterly statistical report which shall state at least the numbers of students and volunteers in the program;

3) Approved grant applicants shall submit to the State Library Office of the Secretary of State at least semi-annually each fiscal year a semi-annual narrative report on a schedule established by the State Library. The semi-annual narrative reports shall state at least:

1) The number of students served to the date of the report (with a description of their ages, sex, educational level, and language proficiency); The number of students served shall be separated into two categories:

A) the number of students referred to other programs; and

B) the number actually taught by the applicant;

2) The names of the students shall be confidential and released only for audit purposes;

3) Where the students are being taught;

4) The total number of volunteers recruited, describing their sex, age, number of training sessions and the amount of volunteer time expended to date;

5) The name of the community coalition formed, if any;

6) What public awareness efforts were undertaken by the program to the date of the report;

7) What has been the most successful or positive activity of the project;

8) What problems, if any, have occurred;

9) To what extent the project goals and objectives have been met to date; and if not, why not;

10) A final audit shall be submitted by each grant recipient to the State Library Office of the Secretary of State on or before September 1 of each calendar year for the previous fiscal year's program.

11) The decision of the Secretary of State upon any grant application shall be a final decision for the purpose of the Administrative Review Law [735 ILCS 5/9-101 et seq].

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 3040.150 Cancellation of Grant

a) A grant shall be cancelled if:

1) Required reports and data Financial, statistical, and narrative reports are not submitted as required by Section 3040.140(e), and (f) or if the previous fiscal year's audit was required by Section 3040.140(f), is not received by September 1 and the

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

program has a grant under which it is operating in the current fiscal year. Grant programs shall receive one 30 day notice requesting compliance with this Section before the grant shall be cancelled.

2) An audit or the interim financial report shows reports show financial irregularities, such as misappropriation or embezzlements of funds by the grant program operator and/or its employees and staff.

3) The grant program fails to meet its stated goals.

4) The grant program managers are convicted of any felony or misdemeanor.

5) The grant program fails to operate properly and effectively.

6) A monitor's evaluation shows program irregularities or non-compliance with this Part.

b) Upon cancellation, the Secretary shall send a notice by certified, return receipt requested mail to the grant program, which shall return all unexpended public funds to the Secretary within 30 days after the date of the cancellation notice.

c) Any public funds not returned shall be the subject of a collection action by the Attorney General of Illinois.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 3040.160 Fiscal Audit Procedures

a) On or before September 1 of each year, the literacy grant recipient may be asked by the State Library to present copies of past audits or require that an audit of grant funds be performed on individual programs. Must conduct an audit of the program and its expenditure of the grant funds. Grant funds shall be accounted for using the modified accrual accounting method. The State Library will add funds to budgets of grant recipients to pay for audit costs. The literacy grant recipient shall select an independent certified public accountant to perform the audit in accordance with the United States General Accounting Office Government Auditing Standards and for Audit of Governmental Organizations, Programs, Activities and Functions (Yellow Book), 1994 revision, no later editions. This document can be obtained through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. A copy of this document is also maintained for public inspection at the Illinois State Library, 300 South Second Street, Springfield, Illinois 62701. The results of this audit must be submitted to the State Library. Failure to submit the audit by the September 1 deadline shall result in immediate forfeiture to the Secretary of State of 10% of the grant award. Failure to conduct the audit or failure to report the results to the State Library shall result in cancellation of any existing

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- grants--The State Library shall withhold 10% of the grant funds until receipt and approval of the final program and financial reports--
 b) The State Library shall withhold 10% of the grant funds until receipt and approval of the final program and financial reports. The provisions of this Section will not be applicable to entities that fail under the audit authority of the Auditor General of Illinois--
 c) Entities electing to fulfill their audit requirements by submitting a single audit of their entity in accordance with the Single Audit Act of 1984 (31 U.S.C.A. Section 7501 et seq.) may do so--However, a schedule of revenues and expenditures for the grant, showing budget and actual amounts, must be included as a supplementary schedule in the audit report--Those entities electing to submit a single audit will not be subject to the September 1 deadline indicated in subsection (a) above--Single audits must be submitted within 90 days after release of the single audit report--

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 3040.170 Other Requirements

a) Testing

- 1) Plans for pre- and post-testing of students must be attached to the proposal application. The Slosson Oral Reading Test-Revised (SORT-R), which can be ordered from Slosson Educational Publications, Inc., P.O. Box 280, East Aurora NY 14052-0280, must be used in student testing for semi-annual reports submitted to the State Library, Office of the Secretary of State. Programs are encouraged to use additional tests for their own purposes.
- 2) In the case of English As a Second Language (ESL) projects, professionally accepted tests must be used, such as the Henderson - Moriarty ESL/Literacy Placement (HELP) List, which can be ordered from Regents/Prentice Hall, Order Department, 200 Old Tappan Road, Old Tappan NJ 07675; the ESLOA Oral Assessment, which can be ordered from Literacy Volunteers of America, Inc., 5795 Widewater Parkway, Syracuse NY 13214; the Comprehensive English Language Skills Assessment (CELSA), which can be ordered from Association of Classroom Teacher Testers, 1136 Clement Street, San Francisco CA 94118; the Test of English Proficiency Level (TEPL), which can be ordered from Language Teacher's Center, P.O. Box 98, The Sea Ranch CA 95497; the Basic English Skills Test (BEST), which can be ordered from Center for Applied Foreign Service Institute Oral Proficiency Interview (FSI) (also known as IIR), which can be ordered from ETS, Princeton NJ 08541; the New York State Placement Test (NYS-Place Test), which can be ordered from The University of the State of New York, The State Education Department, Division for Program Development, Albany,

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

New York 12234; and the Basic Inventory of Natural Language (BINL), which can be ordered from CHEC point Systems, Inc., 1520 North Waterman Avenue, San Bernardino CA 92404. All tests used must be described in the proposal. Results must accompany semi-annual and final reports.

3) In the case of students who enroll for math assistance only, the TABE math test, which can be ordered from CPE/McGraw Hill, 20 Ryan Ranch Road, Monterey CA 93940, must be used in testing for semi-annual reports submitted to the State Library, Office of the Secretary of State.

b) Equipment

- 1) Any equipment purchased by a literacy program from grant funds shall be the property of the State Library for a period of two fiscal years.
- 2) Any equipment purchased from grant funds, which equipment is no longer used by the grantee for literacy program purposes, shall be returned to the State Library. The equipment is "transferable property" as defined in Section 1.04 of the State Property Control Act [30 ILCS 605/1-04]. The equipment shall be disposed of pursuant to the State Property Control Act [30 ILCS 605].
- c) No literacy grant program shall purchase with grant funds any equipment without the prior written consent and approval of the State Library. Approval will be granted by the State Library if the grantee demonstrates that the purchase is essential to the program and cannot be funded in any other way.
- d) No literacy program shall transfer funds within the approved grant budget in excess of 10% of the budget line item from which the funds are transferred, without the prior written approval of the State Library. Approval will be granted by the State Library when justification is shown for why the transfer is necessary and how it will affect the goals and objectives of the project. Unapproved expenditures in excess of 10% of a budget line will not be paid for by the grant.
- e) Costs for purchase of consultant services will not be allowed in the proposal budget unless the specific expertise required is not available at the applicant's agency or the State Library, Office of the Secretary of State. Justification must be provided if consultant services are purchased and a complete description of the work to be performed must also be provided. The proposed consultant must be mutually acceptable to both the grantee and State Library, Office of the Secretary of State, based on the consultant's prior experience and expertise in literacy programs.
- f) A literacy grant monitor shall make a minimum of one site visit during the fiscal year. Additional site visits may be made at the discretion of the Literacy Office (for such reasons as poor recordkeeping, fiscal irregularities, monitor's/staff's request after viewing narrative reports, request by literacy program). Literacy monitors shall evaluate program effectiveness as directed by the LAB. It shall be

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

the responsibility of the grant monitor to:

- 1) Review the grant budget and expenditures in the project to date.
- 2) Verify that the project plan is being implemented according to the proposal approved by the IAB.
- 3) Submit a written report on the progress of the project to the State Library Literacy Office following each site visit.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART B: WORKPLACE LITERACY PROGRAM

Section 3040.200 Purpose

- a) The Workplace Literacy Program is part of the Literacy Grant Program established by Section 7.2 of the State Library Act (115 ILCS 320/7.2).
- b) The purpose of the workplace literacy program is to promote working relationships between employers and Illinois adult educational providers of all types to reduce adult illiteracy in Illinois through grant awards which will be made to businesses who propose to contract with adult educational providers to do one or more of the following:
 - 1) Assess educational skill levels of employees or prospective employees to determine the extent of need for a workplace literacy program for their adult employees or prospective employees who read, write, comprehend, and/or compute below the 10th grade level; or, who have inadequate basic skills, or who are or would be unable to perform their jobs effectively, or who are ineligible for career advancement due to an identified lack of basic skills below 10th grade level;
 - 2) Develop plans for implementation of a workplace literacy program for their adult employees or prospective employees who read, write, comprehend, and/or compute below the 10th grade level;
 - 3) Implement a workplace literacy program for their adult employees or prospective employees who read, write, comprehend, and/or compute below the 10th grade level;
 - 4) Provide support services for a workplace literacy program including training in program management, training in teaching methodologies, diagnostic testing for learning disabilities, referral procedures, and other consulting services directly related to development and implementation of a workplace literacy program.
- c) Public funds awarded under this grant program must be matched by the applicant with funds at least equal to the amount of public funds awarded. All combined funds must be used for the purpose set forth in the grant application and for which the public funds are awarded.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 3040.210 Definitions

"Adult Educational Provider" means an education agency, association, library, volunteer or community-based organization, or a coalition thereof which currently provides instruction in literacy to persons 16 years or older who read below a tenth (10th) grade level.

"Adult Employee" means an individual in Illinois who has exceeded the maximum age for compulsory schooling (16 sixteen), is not currently enrolled in school (Article 26 of the School Code [105 ILCS 5/Art. 26]), and is employed by the business applicant.

"Application" means the written request for a workplace literacy grant submitted to the Literacy Office, Illinois State Library, Office of the Secretary of State pursuant to this Part. Applications shall be submitted by the legal entity responsible for the disbursement of public funds.

"Association" means any organization incorporated under the General Not-for-Profit Corporation Act of 1986 comprised of members with a common purpose and having a structure in conformity with that Act.

"Business" means a private, legal entity or group of entities which employs or represents workers and is a corporation, a sole proprietorship, a limited liability company, or a partnership.

"Coalition" means a structured cooperative effort between a library system, library or libraries, education agency or agencies, community-based organization or organizations, and association or associations, or any combination thereof at the local or regional level.

"Community-based Organization" means a private or public not-for-profit organization, including volunteer organizations, located in an Illinois community, which provides services to citizens within that community and the surrounding area.

"Contractual Agency" means the educational provider(s) with whom the business will contract to perform any or all of the services necessary for the development or implementation of a workplace literacy program.

"Diagnostic Testing" means testing methods which indicate whether an adult employee or prospective employee has visual, auditory, or basic learning disabilities.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

"Educational Skills Assessment" means testing methods which measure the education skills possessed by adult employees or prospective employees, including reading, writing, comprehension, and computation abilities.

"Employer" means a private business, a government, or any entity employing for work purposes two or more persons not members of the employer's immediate family.

"Fiscal Year" means the fiscal year of the State of Illinois.

"Illiteracy" means the inability to read, write, comprehend, and/or compute above the 9.9 grade level.

"Illiterate Employee or Prospective Employee" means an adult whose minimal skills in reading, writing, comprehension, and/or computation preclude the individual from functioning in the workplace.

"Instructional Materials" means written materials and computer software programs which are used in teaching adult employees or prospective employees basic reading, writing, comprehension, and/or computation skills or which supplement the teaching of such skills.

"LAB" means the Literacy Advisory Board established by Section 7.2 of the State Library Act [15 ILCS 320/7-2].

"Library" means the main facility for a tax-supported public library within an Illinois library system.

"Literacy" means the ability of an individual to read, write, comprehend, and/or compute above the 9.9 grade level.

"Secretary of State" means the Illinois Secretary of State.

"State Library" means the Illinois State Library, a department of the Illinois Secretary of State established pursuant to the State Library Act [15 ILCS 320].

"Workplace Literacy Program" means a structured program which provides direct instructional services in reading, writing, comprehension, and/or computation to adult employees or prospective employees.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 3040.220 Application for Grant

- a) A request for a grant shall be submitted to the Literacy Office in

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

writing postmarked no later than March 15 for each fiscal year. Applicants shall use the forms prepared and made available by the Secretary of State for this purpose. Applications not submitted on time or on the required forms shall not be considered for funding by the LAB.

- b) Applications shall be submitted to the Literacy Office, Illinois State Library, 431 South Fourth Street, Springfield, Illinois 62701.

- c) Applications shall be reviewed by the LAB. Awards shall be made on or after July 1st for the fiscal year then commencing.

- d) Grants shall not exceed \$10,000 to any one grant applicant.

- e) Applications must be submitted in one (1) original and nine (9) copies.

- f) The grant period shall be the fiscal year.

- g) Applications shall include the following information:

- 1) The name and address of the business submitting the grant application.

- 2) The name, title, address and telephone number of the person at the business who will be responsible for administration of the program.

- 3) The name, address, telephone number, Federal Employer Identification Number (FEIN), and signature of the fiscal officer at the business who will receive any approved grant and be responsible for proper safeguarding of the grant funds. If a government employer does not have a FEIN, then some other identifying number must be given.

- 4) The term of the workplace literacy program.

- 5) The total amount of grant money requested for the workplace literacy program.

- 6) The total amount of funds which the business applicant will contribute to the workplace literacy program as a matching contribution, including personnel, equipment, supplies, instructional materials and other related expenditures, but not to include overhead costs such as space, heat, lights and furniture.

- 7) A Certification of Assurance signed by the Fiscal Officer which indicates that the business applicant has sufficient funds to pay the business matching share of the program cost.

- 8) A brief and explicit statement of the purpose and goals of the workplace literacy program.

- 9) A detailed statement of the plan of operation of the workplace literacy program and the proposed timeline for achieving objectives and goals including the anticipated number of employees or prospective employees who will be involved, and whether the proposed plan will include an educational skills assessment, development of a workplace literacy program, implementation of a workplace literacy program, support services for a workplace literacy program, or all of the above.

- 10) A statement about the adult educational provider(s) with whom the

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

funds to be awarded to fund each grant application based upon the criteria in Section 3040.230.

- b) The LAB shall make its recommendations by July 1 for each Fiscal Year.
- c) The Secretary of State shall make his or her final decision upon each recommendation as soon as possible within 60 days after the recommendation is presented to the Secretary. The Secretary of State shall approve or disapprove the recommendations of the Literacy Office based upon whether the Secretary determines the recommendations to be consistent with Section 5 of the State Library Act [15 ILCS 320/5] and this Part.
- d) The final approved grant application and the funding determination shall constitute the Workplace Literacy Grant Determination, which shall be a public record, as shall be the grant applications, whether approved or not, and shall be subject to disclosure pursuant to the Freedom of Information Act [5 ILCS 140] and the rules of the Secretary of State found at 2 Ill. Adm. Code 551.
- e) Approved grant applicants shall submit to the Literacy Office the following reports: quarterly financial reports; midterm and final program progress reports.

- 1) The quarterly financial reports shall state the amount of money expended to date in each line item of the approved program budget and the amount of money expended to date by the business applicant as matching funds.
- 2) The midterm and final program progress reports shall state, at least:

(A) For an employee educational assessment, the number of employees or prospective employees tested, the method of testing used, the number of hours spent in testing, the results of that testing, the need for instructional services indicated as a result of that testing, if any, and the plans of the business applicant for addressing that need.

(B) For development of plans for a workplace literacy program, the target number of employees or prospective employees to be served, how this number was determined, location of where employees will receive instruction, the target number of hours for employees instruction, the method of instruction which will be provided, the amount of release time which will be allowed for employees who receive instruction, if any, and when the workplace literacy program will begin.

(C) For implementation of a workplace literacy program, the number of employees or prospective employees served to the date of the report, the net gain in education skills of each employee receiving instruction, pre- and post-test scores of each employee receiving instruction, the number of hours each employee or prospective employee has spent in instruction, and the amount of release time allowed employees who have received instruction.

(D) For support services provided to a workplace literacy

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

program, the type and extent of services rendered, the number of employees or prospective employees served through the support services, and the impact of support services on the workplace literacy program.

(E) For all types of contractual services listed above, what has been the most positive outcome of the services, what problems, if any, have occurred in the delivery of these services, and to what extent the goals and objectives of these services have been met to the date of the report.

- 3) Failure to submit the required reports shall be cause for cancellation of the grant. Grant recipients shall receive one ~~thirty~~ 30 day notice requesting compliance with this Section before the grant shall be cancelled.

f) The final financial and program progress reports shall be submitted by each grant recipient to the Literacy Office on or before July 15 of each calendar year for the previous Fiscal Year's program.

- g) The decision of the Secretary of State upon any grant application shall be a final decision for the purpose of the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Procedures and Standards2) Code Citation: 92 Ill. Adm. Code 10013) Section Numbers: Proposed Action:

1001.710	Amendment
1001.730	Amendment
1001.750	Amendment
1001.760	Amendment
1001.770	Amendment
1001.780	Amendment
1001.785	Amendment
1001.790	Amendment

4) Statutory Authority: Authorized by the Motor Vehicle Franchise Act [815 ILCS 710].5) A Complete Description of the Subjects and Issues Involved: These amendments to the Motor Vehicle Review Board regulations clarify provisions relating to continuances, the awarding of attorney's fees and costs and other procedural matters to more accurately reflect how cases between dealers and manufacturers/distributors are being handled.6) Will this proposed rule replace an emergency rule currently in effect?
No7) Does this rulemaking contain an automatic repeal date? No8) Do these proposed amendments contain incorporation by reference? No9) Are there any other amendments to this Part pending? No10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Written comments may be submitted no later than 45 days to:

Jay L. Mesi, Senior Legal Advisor
Office of the Secretary of State
Department of Administrative Hearings
200 Howlett Building
Springfield, Illinois 62756

12) Initial Regulatory Flexibility Analysis:A) Types of small businesses, small municipalities and not for profit

DEPARTMENT OF SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

corporations affected: This rule may affect automobile dealerships and attorneys representing them upon the filing of a notice of protest against a manufacturer/distributor of motor vehicles. This rule will not affect any not for profit entity or unit of government.

B) Reporting, bookkeeping or other procedures required for compliance:
No additional reporting requirements are imposed.C) Types of professional skills necessary for compliance: No professional skills are relevant to this rulemaking other than those normally required of attorneys.13) Regulatory Agenda on which this rulemaking was summarized: January 1998 and July 1998

The full text of the Proposed Amendments begins on the next page.

DEPARTMENT OF SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1001
PROCEDURES AND STANDARDS

SUBPART A: FORMAL ADMINISTRATIVE HEARINGS

Section	
1001.10	Applicability
1001.20	Definitions
1001.30	Right to Counsel
1001.40	Appearance of Attorney
1001.50	Special Appearance
1001.60	Substitution of Parties
1001.70	Commencement of Actions; Notice of Hearing
1001.80	Motions
1001.90	Form of Papers
1001.100	Conduct of Formal Hearings
1001.110	Orders
1001.120	Record of Hearings
1001.130	Invalidity

SUBPART B: ILLINOIS SAFETY RESPONSIBILITY HEARINGS

Section	
1001.200	Applicability
1001.210	Definitions
1001.220	Hearings: Notice; Locations; Procedures; Record
1001.230	Rules of Evidence
1001.240	Scope of Hearings
1001.250	Decisions and Orders
1001.260	Rehearings
1001.270	Judicial Review
1001.280	Invalidity

SUBPART C: RULES ON THE CONDUCT OF INFORMAL HEARINGS
IN DRIVERS LICENSE SUSPENSIONS AND REVOCATIONS

Section	
1001.300	Applicability
1001.310	Definitions
1001.320	Right to Representation
1001.330	Record and Reports
1001.340	Location of Hearings
1001.350	Duties and Responsibilities
1001.360	Decisions
1001.370	Invalidity

DEPARTMENT OF SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

SUBPART D: STANDARDS FOR THE GRANTING OF RESTRICTED DRIVING PERMITS,
REINSTATEMENT, AND THE TERMINATION OF CANCELLATIONS OF
DRIVING PRIVILEGES BY THE OFFICE OF THE SECRETARY OF STATE

Section	
1001.400	Applicability
1001.410	Definitions
1001.420	General Provisions Relating to the Issuance of Restricted Driving Permits
1001.430	General Provisions for Reinstatement of Driving Privileges after Revocation
1001.440	Provisions for Alcohol and Drug Related Revocations, Suspensions, and Cancellations Pursuant to Sections 6-205(a)2, 6-205(d), 6-206(a)1, 6-206(a)6, 6-206(a)17, 6-206(a)24, 6-206(a)31, 6-201, 6-203, 6-203.1 and 11-501.1
1001.441	Breath Alcohol Ignition Interlock Device Pilot Program
1001.442	Manufacturer's Responsibilities; Approval for Analyzing Alcohol Content of Breath; DPH Inspections; Disqualification of a Manufacturer; Designation and Assignment of Regions
1001.443	Installers' Responsibilities
1001.450	New Hearings
1001.460	Requests for Modification of Revocations and Suspensions
1001.470	Renewal, Correction and Cancellation of RDP's
1001.480	Unsatisfied Judgment Suspensions
1001.485	Reinstatement Application Based Upon Issuance of Drivers License in a State Which is a Member of the Driver License Compact
1001.490	Invalidity

SUBPART E: FORMAL MEDICAL HEARINGS

Section	
1001.500	Applicability
1001.510	Definitions
1001.520	Procedure
1001.530	Conduct of Medical Formal Hearings
1001.540	Subsequent Hearings

SUBPART F: ZERO TOLERANCE SUSPENSION OF DRIVING PRIVILEGES; PERSONS
UNDER THE AGE OF 21 YEARS; IMPLIED CONSENT HEARINGS; RESTRICTED
DRIVING PERMITS

Section	
1001.600	Applicability
1001.610	Definitions
1001.620	Burden of Proof
1001.630	Implied Consent Hearings; Religious Exception
1001.640	Implied Consent Hearings; Medical Exception
1001.650	Rebuttable Presumption
1001.660	Alcohol and Drug Education and Awareness Program

DEPARTMENT OF SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

1001.670 Petition for Restricted Driving Permits
 1001.680 Form and Location of Hearings
 1001.690 Invalidity

SUBPART G: MOTOR VEHICLE FRANCHISE ACT

1001.700 Applicability
 1001.710 Definitions
 1001.720 Organization of Motor Vehicle Review Board
 1001.730 Motor Vehicle Review Board Meetings
 1001.740 Board Fees
 1001.750 Notice of Protest
 1001.760 Hearing Procedures
 1001.770 Conduct of Protest Hearing
 1001.780 Mandatory Settlement Conference
 1001.785 Technical Issues
 1001.790 Hearing Expenses; Attorney's Fees
 1001.795 Invalidity

APPENDIX A

BAIID Regions and Minimum Installation/Service Center Site Location Guidelines

AUTHORITY: Subpart A implementing Sections 2-113, 2-118, 6-108, 6-205, and 6-206 and authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-108, 6-205 and 6-206]. Subpart B implementing Chapter 7 and authorized by Sections 2-103, 2-104, 2-106, 2-107, 2-108, 2-113, and 2-114, and Ch. 7 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-106, 2-107, 2-108, 2-113, 2-114 and Ch. 7]. Subpart C implementing Sections 6-203(c) and 6-206(c)3 and authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 6-203(c) and 6-206(c)3]. Subpart D authorized by Sections 2-104 and 11-501 of the Illinois Vehicle Code and implementing Sections 6-103, 6-205(c), 6-206(c)3, and 6-208 of the Illinois Vehicle Code [625 ILCS 5/2-104, 6-103, 6-205(c), 6-206(c)3, 6-208 and 11-501]. Subpart E implementing Sections 2-113, 2-118, 2-123, 6-103, 6-201, 6-906, and 6-908 and authorized by Sections 2-103, 2-104, 6-906, and 6-909 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 2-123, 6-103, 6-201, 6-906, 6-908 and 6-909]. Subpart F implementing Sections 2-103, 2-113, 2-118, 6-208.2, 11-501.1, and 11-501.8 and authorized by Sections 2-103, 2-104, and 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-208.2, 11-501.1 and 11-501.8]. Subpart G implementing and authorized by the Motor Vehicle Franchise Act [815 ILCS 710].

SOURCE: Adopted and codified at 7 Ill. Reg. 7501, effective June 17, 1983; amended at 8 Ill. Reg. 4220, effective April 1, 1984; emergency amendment at 9 Ill. Reg. 17030, effective October 18, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 4558, effective March 18, 1986; amended at 11 Ill. Reg. 17844, effective October 15, 1987; amended at 13 Ill. Reg. 15803, effective October 1, 1989; amended at 14 Ill. Reg. 2601, effective February 15, 1990; amended at 14

DEPARTMENT OF SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

Ill. Reg. 16041, effective October 1, 1990; emergency amendment at 16 Ill. Reg. 19926, effective December 8, 1992, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 2047, effective January 27, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6274, effective May 1, 1993; amended at 17 Ill. Reg. 8528, effective June 1, 1993; emergency amendment at 18 Ill. Reg. 7916, effective May 10, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 15127, effective September 21, 1994; emergency amendment at 19 Ill. Reg. 54, effective January 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6667, effective May 1, 1995; emergency amendment at 20 Ill. Reg. 1626, effective January 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 8328, effective June 12, 1996; emergency amendment at 20 Ill. Reg. 9355, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15773, effective November 28, 1996; amended at 22 Ill. Reg. _____, effective _____.

SUBPART G: MOTOR VEHICLE FRANCHISE ACT

Section 1001.710 Definitions

"Act" means the Motor Vehicle Franchise Act [815 ILCS 710].

"Board" means the ~~three-member~~ Motor Vehicle Review Board.

"Complainant" means the dealer/franchise requesting the hearing.

"Days" means, unless otherwise stated, calendar days when referring to a filing deadline.

"Manufacturer/distributor" means any person who manufactures, assembles, distributes or sells at wholesale under a franchise agreement five or more new motor vehicles within Illinois during the calendar year.

"Monitor" means a Board member, including the Chairperson, assigned to a specific case by the Chairperson for the purpose of reviewing all matters relevant to that case and making a recommendation to the Board as to the final disposition of the case.

"Party" means the Complainant or Respondent.

"Respondent" means the manufacturer/distributor allegedly violating the Act.

"Secretary" means the Secretary of State or his/her duly appointed designee.

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

DEPARTMENT OF SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

Section 1001.730 Motor Vehicle Review Board Meetings

a) The annual meeting of the Board shall be held at a Secretary of State office or facility in either Chicago or Springfield as determined by the Chairperson. ~~The first such meeting shall be held at a location determined by the Secretary.~~ In addition to those responsibilities set forth in the Act, the following shall be accomplished at the annual meeting, but not limited thereto:

- 1) Formally adopt this Subpart G as its regulations for the holding and conducting of hearings concerning all matters within its powers;
- 2) Determine the members duties and responsibilities where practical;
- 3) Set or adopt a previously set tentative schedule of meetings for the year;
- 4) Set out concerns and or needs to be addressed by the Secretary to help implement the Act, including a review of the administrative rules adopted and any suggested amendments thereto;
- 5) Suggest to the Secretary in writing legislative changes to the Act.

b) The Board shall hold at a minimum quarterly meetings throughout the year for the following purposes, but not limited thereto:

- 1) Reviewing notices of protest and deciding how each should be handled;
- 2) Reviewing recommendations from hearing officers, exceptions and briefs from the parties, and issuing final orders;
- 3) Addressing any issue that may be discussed at an annual meeting.
- c) The quarterly or sooner meetings may be held in person, by telephone, or by other electronic means at the discretion of the Chairperson. In either event, the meeting ~~or the Chairperson~~ shall be originate at a facility of the Secretary in either Chicago or Springfield.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1001.750 Notice Of Protest

a) A notice of protest from a complainant must be in writing and contain at a minimum the following information:

- 1) Name, address and dealer license number of the complainant;
- 2) Name and address of the respondent;
- 3) Name and address of any other dealer/franchise involved;
- 4) The Section(s) of the Act allegedly violated;
- 5) A brief description of the facts supporting the complainant's position;
- 6) A copy of any documents received from the respondent and any documents sent by the complainant to the respondent or other dealer/franchise involved in the protest;

DEPARTMENT OF SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

7) The date notified in writing by the manufacturer of the proposed action;

g) The date of the most recent franchise or service agreement between the dealer and the manufacturer.

b) In determining if the notice has been timely filed, the postmark shall control if mailed; if hand delivered, the date of delivery as evidenced by a Secretary stamp mark; if faxed, the date of the fax.

c) The complainant must submit one original and four three copies of the Notice of Protest in any one of the following ways: sent or delivered to the Illinois Secretary of State, Room 200, Howlett Building, Springfield, Illinois, 62756; delivered to the Illinois Secretary of State, Room 1200, 17 N. State, Chicago, Illinois, 60602; or faxed to the Springfield office at (217) 524-1561.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1001.760 Hearing Procedures

a) Receipt of a notice of protest shall be handled as follows:

- 1) Any notice of protest received by the Secretary shall be sent to the Chairperson, who shall review the notice to see if it has been timely filed, is in compliance with Section 1001.750, and falls under the purview of the Act. A copy shall also be sent to the respondent.

2) If the notice meets all of the above requirements, the Chairperson shall:

- A) Assign a ~~Board member~~ to monitor the case and a hearing officer to hear the case. The hearing officer shall be selected from a list of possible hearing officers supplied by the Secretary. The selection shall be made on a rotating basis taking into consideration expertise and qualifications needed for each case.
- B) Have the Secretary enter an order setting the date, time and place of the hearing. Said date shall be within 60 days after the date of the order. The hearing shall be held at a location determined by the Secretary. Any motion to dismiss or strike the notice of protest must be filed within 21 days from the date of receipt of the order setting the hearing.
- C) The hearing officer may continue the hearing date more than 90 day from the date of the Board's initial order scheduling the hearing only if the parties agree to the continuance and the hearing officer finds that due to the complexity of the issue(s) involved meaningful hearing could not be held prior thereto.

3) If the notice does not meet all of the requirements of subsection (a)(1) above, the Chairperson shall have the Secretary notify the complainant and the respondent of the defect and no hearing shall

DEPARTMENT OF SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- be set.
- 4) If the Chairperson determines that the notice of protest does not fall under the purview of the Act in that the alleged violation is not under the Act or that an exception under the Act applies:
- A) The complainant shall be so notified and given ~~ten~~¹⁴ working days to respond. If no response is received within that time, the Chairperson shall cause a summary order to be entered denying the relief requested, which shall be a final, appealable order.
- B) If a response is received, as provided in Section 1001.750, copies of the file will be given to each Board member who will review the matter and ~~at a meeting of the Board~~ make a recommendation to the Chairperson as to whether there appears to be a reasonable possibility that a violation of the Act occurred.
- i) If a majority of the Board determines that there is such a reasonable possibility, a hearing shall be scheduled.
- ii) If a majority of the Board determines that there is not such a reasonable possibility, the Chairperson shall cause a summary order to be entered denying the relief requested, which shall be a final appealable order.
- b) All hearing related issues, such as rules of evidence, discovery, continuances, etc., are governed by Section 29 of the Act. To the extent that an issue is not covered in that Section, the administrative hearing rules found in Subpart A of this Part shall govern. Specifically, disqualification of a hearing officer shall be in accordance with Section 1001.100(b) of Subpart A of this Part. Enforcement of discovery procedures shall be as set forth in the Illinois Supreme Court Rule 219.
- c) The standard of proof is by the preponderance of the evidence.
- d) Once a matter is scheduled for hearing, the filing of subsequent pleadings and other documents in the matter shall be accomplished by serving a copy each upon the hearing officer and the other party at their respective addresses of record and three copies upon the Secretary in the manner and at the location set forth in Section 1001.750 of this Subpart G.
- e) Once the proposed decision is served upon the parties, any party wishing to file exceptions and present a brief to the Board may do so by serving an original and five copies of the same upon the Secretary in a manner and at a location as set forth in Section 1001.750, and send a copy to the other party. Upon receipt of the said documents, the Secretary shall forward the documents to the Board members member ~~to whom the case was assigned~~, who shall review the exceptions and briefs. ~~The monitor shall then and make a recommendation to the full Board.~~ The ~~Board member~~ monitor may consult with the hearing officer who heard the case.

DEPARTMENT OF SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- f) If a case ends in a settlement or otherwise by agreement of the parties, the parties may waive, in writing or on the record, the 10 day statutory period for filing exceptions and briefs. In that case, the hearing officer shall so note in the proposed decision. Upon receipt of the proposed decision, the Secretary shall forward it directly to the Chairperson, who will then enter a final order on behalf of the Board.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1001.770 Conduct of Protest Hearing

- a) These hearings shall be held in Chicago or Springfield at a location determined by the Secretary, taking into consideration the location and/or request of the complainant.
- b) The hearing officer does not represent any party at the proceeding, but merely facilitates the hearing by presiding over it and performing the following duties in addition to those set forth in the Act:
- 1) Inform the parties of the relevant issues to be decided;
 - 2) Rule on motions, the admissibility of evidence and all other legal issues raised;
 - 3) Prepare a proposed decision and submit it to the Chairperson and have the Secretary serve it upon the parties to the proceeding.
- c) The hearing shall proceed in the following manner:
- 1) The hearing officer will identify the parties and set forth the violations of the Act alleged by the complainant.
 - 2) The party bearing the burden of proof as set forth in Sections 4 or 29 of the Act shall then present evidence in the form of documents and/or testimony relevant to the alleged violation of the Act. If Section 4 or 29 of the Act does not specify which party has the burden of proof for a particular violation of the Act, the burden of proof shall be on the respondent to show that there is good cause for its action or inaction.
 - 3) The other party to the proceeding shall then be allowed to present its evidence.
 - 4) The hearing officer may ask questions as deemed necessary.
 - 5) At the conclusion of the taking of evidence, each party shall be allowed to make a closing statement.
 - 6) The hearing officer will then advise the parties that in accordance with Section 30 of the Act all expenses incurred by the Board in conducting the hearing shall be paid by the parties equally and further that if the complainant substantially prevails it will be awarded attorney's fees and costs in accordance with Section 13 of the Act. The hearing officer may ~~shall~~ also advise the complainant that, in the event that ~~complainant~~ may substantially prevail, it should submit as soon as possible a detailed billing setting forth the cost allowed

DEPARTMENT OF SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

under Section 1001.790(b) ~~dates, times, hours and other~~ expenses it incurred in the hearing process.

7)6+ The hearing officer shall then take the matter under advisement, review the evidence and make a written recommendation to the Board, ~~including any award of attorney's fees and costs~~, by submitting it to the Secretary who shall then forward it to the Board ~~members member to whom it was assigned~~ and serve it upon the parties.

d) The ~~monitor~~ Board member shall review the recommendation, any exceptions and briefs submitted, and make a recommendation to the Board.

e) The Board shall then review the case file, the recommendation of the hearing officer, any exceptions and briefs, and the recommendation of the ~~monitor~~ Board member. The Board shall then issue a final order ~~which shall include any award of attorney's fees and costs or the amount of Board expenses payable by each party~~. The final order shall be forwarded to the Secretary who shall then serve it upon the parties.

1) If the final order is such that the complainant does not substantially prevail, the final order shall include the amount of Board expenses payable by each party.

2) If the final order is such that the complainant substantially prevails and is based upon a hearing officer's written recommendation that includes an award of attorney's fees and costs as allowed under Section 1001.790(b), it shall include an award of attorney's fees and costs.

3) If the final order is such that the complainant substantially prevails and is based upon a hearing officer's written recommendation that does not include an award of attorney's fees and costs as allowed under Section 1001.790(b):

A) The complainant shall be allowed to submit to the hearing officer within 10 days after receipt of the final order a detailed motion requesting the payment of the costs allowed under Section 1001.790(b) that it incurred in the hearing process. A copy of the motion shall also be sent to the respondent and 3 copies to the Secretary. If the complainant fails to submit the motion in a timely manner, the complainant will be deemed to have waived its right to an award of such costs.

B) The respondent shall have 10 days from receipt of the motion to file an answer with the hearing officer. A copy shall also be sent to the complainant and 3 copies to the Secretary.

C) The hearing officer may, if he/she deems it necessary, set a hearing on the motion requesting the payment of costs.

D) The hearing officer shall then take the motion under advisement and make a written recommendation to the Board on the award of attorney's fees and costs by submitting it to

DEPARTMENT OF SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

the Secretary who shall then forward it to the Board members and serve it upon the parties.

E) The monitor shall review the recommendation, the pleadings filed, any exceptions and briefs submitted, and make a recommendation to the Board.

F) The Board shall then review the recommendation of the hearing officer, the pleading filed, any exceptions and briefs, and the recommendation of the monitor. The Board shall then issue a final order assessing the Board's expenses and awarding attorney's fees and costs to the complainant. The final order shall be forwarded to the Secretary who shall then serve it upon the parties.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1001.780 Mandatory Settlement Conference

a) The hearing officer assigned to the case may order a mandatory settlement conference (conference) if it is felt that such a conference would promote any of the following:

1) A clarification of issues and/or violations;

2) A settlement of the matter without a hearing;

3) What each party expects from the hearing process and would settle for without a hearing;

4) If a hearing is necessary, an estimate of the length of the hearing, the number of witnesses and volume of documentation, and an estimate of the hearing costs to be assessed to the parties.

b) If the hearing officer orders a conference, it shall be done by notifying the Secretary who shall then send a Notice of Mandatory Settlement Conference to each party. This notice shall advise the parties of the time and place of the conference and that failure to appear, be prepared, or have authority to settle the matter could result in any of the actions set forth in Section 29 of the Act. A conference may be conducted in person or by telephone as deemed appropriate by the hearing officer.

d) If the conference results in a settlement of the matter to the satisfaction of the parties, the hearing officer shall issue a written recommendation and if applicable the procedure set forth in Section 1001.760(f) of this Subpart may be followed ~~the complainant shall submit a written withdrawal of its notice of protest which shall close the matter.~~

e) If the conference does not result in a settlement of the matter, the hearing shall proceed as scheduled unless a motion to dismiss is granted on the grounds of the protest being without merit and/or frivolous. In such case, the hearing officer shall issue a proposed order and all of the ensuing procedures set forth in Section 1001.770 of this Subpart relating to the issuance of a final order shall be

DEPARTMENT OF SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

followed.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1001.785 Technical Issues

- a) If a notice of protest involves a violation of Section 4(e)(8) of the Act in which a mileage determination is relevant, that determination shall be made by the submission of a land survey performed and certified by a Illinois professional land surveyor. The survey shall measure from a point at the current location that is the closest point to the relocation site to a point at the relocation site that is the furthest from the current location. This measurement shall be a straight line as the crow flies, not the most direct route by vehicle. Each party may submit such a survey or may agree upon one survey whose determination shall govern. If the parties each submit a survey showing different results, the hearing officer shall have a survey completed by a surveyor approved by the Secretary which shall govern, the cost of which shall be paid by the parties.
- b) In Section 4(e)(9)(C) of the Act, further away from the nearest dealer of the same line make shall mean that the new proposed dealer location is further from the nearest dealer of the same line make when measured from the new location to its nearest dealer of the same line make as compared to a measurement from the original dealer location to its nearest dealer of the same line make. The measurement shall be made as described in subsection (a) above.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1001.790 Hearing Expenses; Attorney's Fees

- a) Expenses assessed against the parties to the hearing shall be--as provided in Section Sections 13 and 30 of the Act shall include, but not be limited to, the following:
- 1) An \$80 processing fee;
 - 2) Any hearing officer expense incurred, regardless of whether a hearing or mandatory settlement conference is held or the case is dismissed by agreement of the parties or order of the Board;
 - 3) Any other expenses incurred by the Board or the Secretary after the filing of a notice of protest directly relating to that particular case, regardless of whether a hearing or mandatory settlement conference is held or the case is dismissed by agreement of the parties or order of the Board.
- b) Costs that are to be assessed against the opposing party as required in Section 13 of the Act shall be reasonable and include following:
- 1) All att expenses incurred by the Board as provided in subsection

DEPARTMENT OF SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

(a) above; conducting--the hearing as well as costs incurred by the complainant--

- 2) Attorney's fees;
- 3) Expert witness fees;
- 4) Court reporting and deposition expenses;
- 5) Witness fees;
- 6) Document production, photocopies and preparation of trial exhibits;
- 7) Postage, mailing, faxing or other electronic communication expenses;
- 8) Any other expense that the Board deems appropriate in a particular case.
- b) The dollar amount of the expenses shall be the actual amount incurred by the Secretary and the complainant which shall include but not be limited to--hearing officer and Board member compensation, postage, mailing, faxing or other electronic communication expenses and other expenses directly attributable to a case including those incurred by a mandatory settlement conference.
- c) Attorney's fees and expert witness fees awarded to a party shall be based upon the hourly rate or fee that is usual and customary for the area in which the hearing is held. Neither shall include transportation, lodging, or meal expenses.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Carriage by Public Highway
- 2) Code Citation: 92 Ill. Adm. Code 177
- 3) Section Numbers: Adopted Action:
177.2000 Amend
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)]
- 5) Effective date of Amendments: September 30, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.
- 8) A copy of the Adopted Amendments, including any material incorporated by reference, is on file at the Department's Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: June 12, 1998, 22 Ill. Reg. 10286
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version:
Various grammatical changes were made at JCAR's suggestion.
Additionally, at Section 177.2000, the Department included another federal rulemaking at the request of a commentator and also revised the Notice appropriately.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No changes were necessary.

13) Will these amendments replace an emergency amendment currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: By this Notice of Adopted Amendments, the Department has updated the date of incorporation by reference of 49

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

CFR 177, as of October 1, 1997 and has included the federal rulemaking adopted at 63 FR 37454, July 10, 1998.

The Department's regulations will incorporate changes made in the following Docket:

Docket HM-166Y (63 FR 37454, July 10, 1998): Amends the Hazardous Materials Regulations by incorporating miscellaneous changes in order to update, clarify or provide relief from certain regulatory requirements.

16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 177

CARRIAGE BY PUBLIC HIGHWAY

Section

177.1000 General

177.2000 Incorporation By Reference of 49 CFR 177

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, P. AL, effective February 1, 1979; amended at 4 Ill. Reg. 30, P. 1244, effective July 10, 1980; amended at 6 Ill. Reg. 4287, effective April 16, 1982; amended at 7 Ill. Reg. 3486, effective April 2, 1983; codified at 8 Ill. Reg. 18930; Part repealed, new Part adopted at 10 Ill. Reg. 5853, effective April 1, 1986; amended at 10 Ill. Reg. 20749, effective December 1, 1986; amended at 11 Ill. Reg. 4768, effective March 10, 1987; amended at 11 Ill. Reg. 17881, effective October 20, 1987; amended at 12 Ill. Reg. 8074, effective April 26, 1988; amended at 13 Ill. Reg. 3957, effective March 14, 1989; amended at 14 Ill. Reg. 2613, effective February 1, 1990; amended at 15 Ill. Reg. 7743, effective May 7, 1991; amended at 16 Ill. Reg. 11843, effective July 13, 1992; amended at 18 Ill. Reg. 7852, effective May 6, 1994; amended at 20 Ill. Reg. 6531, effective April 30, 1996; amended at 22 Ill. Reg. 5686, effective March 4, 1998; amended at 22 Ill. Reg. 17003, effective SEP 30 1998.

Section 177.2000 Incorporation By Reference of 49 CFR 177

- a) As Part 177 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates 49 CFR 177 by reference, as that Part of the federal hazardous materials transportation regulations was in effect on October 1, 1997; and as amended at 63 FR 37454, July 10, 1998 19967-as-amended-at-62-FR-12177-January-87--19977-as--amended-at-62-FR-462147-September-27-19977--and-as-amended-at-62-FR-51554-October-17-1997, subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of 49 CFR 177 are incorporated.
- b) The following interpretations of, additions to and deletions from 49 CFR 177 shall apply for purposes of this Part.
- 1) All references to "this part" in the incorporated federal regulations shall mean Part 177 of the Illinois Hazardous Materials Transportation Regulations.
 - 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
- 4) All references to Parts 174, 175 or 176, or to sections therein shall be read to refer to those Parts or sections in the federal hazardous materials transportation regulations.
- 5) All references to shipment of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.
- 6) All references to motor vehicles engaged in interstate commerce shall be deemed to include any motor vehicle engaged in commerce within the State of Illinois.

(Source: Amended at 22 Ill. Reg. 17003, effective SEP 30 1998.)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Continuing Qualification and Maintenance of Packaging

2) Code Citation: 92 Ill. Adm. Code 180

3) Section Numbers: Adopted Action:
180.2000 Amend

4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)]

5) Effective date of rules: September 30, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes

These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.

8) A copy of the Adopted Amendments, including any material incorporated by reference, is on file at the Department's Division of Traffic Safety and is available for public inspection.

9) Notice of proposal published in Illinois Register:

June 12, 1998, 22 Ill. Reg. 10290

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version:

Various grammatical and formatting changes were made at JCAR's suggestion.

Additionally, the Department, pursuant to public comment, revised Section 180.2000(a) to include a federal rulemaking cited as "63 FR 37454, July 10, 1998".

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No changes were necessary.

13) Will this amendment replace an emergency amendment currently in effect?
No

14) Are there any amendments pending on this Part? No

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendments:

By this Notice of Adopted Amendments, the Department has updated the date of incorporation by reference of 49 CFR 180, as of October 1, 1997 and has included the federal rulemaking adopted at 63 FR 37454, July 10, 1998.

The Department's regulations incorporate changes made in the following Docket:

Docket HM-166Y (63 FR 37454, July 10, 1998): Amends the Hazardous Materials Regulations by incorporating miscellaneous changes in order to update, clarify or provide relief from certain regulatory requirements.

16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 180

CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGING

Section

180.1000 General

180.2000 Incorporation by Reference of 49 CFR 180

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 14 Ill. Reg. 2617, effective February 1, 1990; amended at 15 Ill. Reg. 7748, effective May 7, 1991; amended at 16 Ill. Reg. 11847, effective July 13, 1992; amended at 18 Ill. Reg. 7857, effective May 6, 1994; amended at 20 Ill. Reg. 6535, effective April 30, 1996; amended at 22 Ill. Reg. 5690, effective March 4, 1998; amended at 22 Ill. Reg. 17007, effective SEP 30 1998.

Section 180.2000 Incorporation by Reference of 49 CFR 180

- a) As Part 180 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates 49 CFR 180 by reference, as that part of the federal hazardous materials transportation regulations was in effect on October 1, 1997; and as amended at 63 FR 37454, July 10, 1998 1996--as amended at 62 FR 12807--January 87--1997 and--as amended--at 62 FR 51547--October 17--1997, subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of 49 CFR 180 are incorporated.
- b) The following interpretations of, additions to and deletions from 49 CFR 180 shall apply for purposes of this Part.
- 1) All references to "this part" in the incorporated federal regulations shall mean Part 180 of the Illinois Hazardous Materials Transportation Regulations.
 - 2) All references to "this chapter" or "this Subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.
 - 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
 - 4) All references to parts 174, 175, 176, or to sections therein shall be read to refer to those parts or sections in the federal hazardous materials transportation regulations.
 - 5) All references to shipments of hazardous materials by air, water and rail are incorporated for reference purposes only for those

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

persons contemplating intermodal movements of hazardous materials.

(Source: Amended at 22 Ill. Reg. 17007, effective SEP 30 1998.)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Hazardous Materials Transportation: General Information, Regulations and Definitions

2) Code Citation: 92 Ill. Adm. Code 171

3) Section Numbers: Adopted Action:
171.5 Repeal
171.22 New Section
171.1000 Amend

4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)]

5) Effective Date of Amendments: September 30, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes

8) A copy of the Adopted Amendments, including any material incorporated by reference, is on file at the Department's Division of Traffic Safety and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: June 12, 1998, 22 Ill. Reg. 10294

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version:

Various grammatical changes have been made at JCAR's suggestion.

Additionally, the following substantive changes were made pursuant to public comment:

At Section 171.1000(a), the Department added another federal rulemaking cited as "63 FR 37454, July 10, 1998". The Notice was corrected to include a summary of this rulemaking as well.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.

13) Will these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendments: By this Notice of Adopted Amendments, the Department has updated the date of incorporation by reference of 49 CFR 171, as of October 1, 1997, and has included the federal rulemakings adopted at 62 FR 65188, December 10, 1997 and 63 FR 37454, July 10, 1998.

The Department's regulations have incorporated changes made in the following Dockets:

Docket HM-225 (62 FR 65188, December 10, 1997): Revises a requirement concerning the daily pressure testing of transfer hoses on cargo tank motor vehicles in Liquefied Compressed Gas service. Also extends the expiration of the final rule requirements to July 1, 1999.

Docket HM-166Y (63 FR 37454, July 10, 1998): Amends the Hazardous Materials Regulations by incorporating miscellaneous changes in order to update, clarify or provide relief from certain regulatory requirements.

Additionally, this rulemaking adds the words "Hazardous Materials Transportation:" to the heading of this part for clarification purposes.

Also, the Department is repealing Section 171.5 to accommodate the August 18, 1997 final rule (62 FR 44038) which established 49 CFR 171.5 as "Temporary Regulations: Liquefied Compressed Gases in Cargo Tank Motor Vehicles". 62 FR 44038 was incorporated by reference in this Part in a previous rulemaking effective March 4, 1998.

Further, Section 171.22 is added to provide a new agricultural exception. 62 FR 1208, January 8, 1997 allows for limited exceptions from the regulations for the movement of agricultural products that conform to requirements of a state in which they are transported and is specifically authorized by a state statute or regulation in effect before July 1, 1998. 62 FR 49560, September 22, 1997 postponed until October 1, 1998 the effective date of the January 8, 1997 final rule. Section 171.22 is added to provide the limited exceptions allowed in 62 FR 1208, January 8, 1997.

Finally, Section 171.1000 is amended to list Section 171.5 "Temporary Regulations: Liquefied Compressed Gases in Cargo Tank Motor Vehicles" as a section of 49 CFR 171 which is incorporated by reference.

16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 171

HAZARDOUS MATERIALS TRANSPORTATION: GENERAL INFORMATION, REGULATIONS AND
DEFINITIONS

Section

171.1 Purpose and Scope

171.2 General Transportation Requirements

171.3 Hazardous Waste

171.4 Exemptions (Renumbered)

171.5 Agricultural Exception (Repealed)

171.6 Agricultural Exception (Renumbered)

171.7 Matter Incorporated by Reference (Repealed)

171.8 Definitions and Abbreviations (Repealed)

171.9 Rules of Construction (Repealed)

171.12 Import and Export Shipments (Repealed)

171.14 Specification Markings (Repealed)

171.15 Incident Reporting Requirements

171.17 Exemptions

171.18 Continuation of Effectiveness of Existing Bureau of Explosives

Registrations (Repealed)

171.19 Approvals or Authorizations Issued by the Bureau of Explosives
(Repealed)

171.21 Retailer Exception

171.22 Agricultural Exception

171.1000 Incorporation by Reference of 49 CFR 171

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, p. 41, effective February 1, 1979; amended at 6 Ill. Reg. 4287, effective April 16, 1982; amended at 7 Ill. Reg. 3486, effective April 2, 1983; codified at 8 Ill. Reg. 17984; amended at 10 Ill. Reg. 9636, effective May 15, 1986; amended at 10 Ill. Reg. 20753, effective December 1, 1986; emergency amendment at 11 Ill. Reg. 1684, effective January 16, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 4772, effective March 10, 1987; amended at 11 Ill. Reg. 7767, effective April 14, 1987; amended at 11 Ill. Reg. 17886, effective October 20, 1987; amended at 12 Ill. Reg. 8078, effective April 26, 1988; amended at 13 Ill. Reg. 3984, effective March 14, 1989; amended at 14 Ill. Reg. 2621, effective February 1, 1990; amended at 15 Ill. Reg. 7752, effective May 7, 1991; amended at 16 Ill. Reg. 12208, effective July 20, 1992; amended at 18 Ill. Reg. 7861, effective May 6, 1994; amended at 20 Ill. Reg. 6539, effective April 30, 1996; emergency amendment at 21 Ill. Reg. 4043, effective March 17, 1997, for a maximum of 150 days; emergency expired August 13, 1997; amended at 22 Ill. Reg. 5694, effective March 4, 1998;

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

amended at 22 Ill. Reg. 17011, effective SEP 30 1998.

Section 171.5 Agricultural Exception (Repealed)

this--Part--and--Driving--and--Parking--92--Ill--Adm--Code--397--do--not--apply--to--the transportation--of--those--hazardous--materials--eited--below--when--such--commodities are--transported--from--retailer--to--final--agricultural--end--user--or--between--final end--users--from--farm--to--farm--in--approved--containers--and--in--the--amounts--and manner--specified:

- a) Agricultural--pesticides--classified--as--Class--3--Class--9--Class--9--or--Class--9--in--Division--6--1--noninhalation--hazard--by--these--regulations--when--moved--in quantities--of--27360--kilograms--(57000--pounds)--or--less--(aggregate--gross weight)--or--17093--liters--(4500--gallons)--or--less--volume--in--solution:
- b) Gasoline--diesel--fuels--oils--lubricants--and--liquefied--petroleum--gas--when--moved--in--quantities--of--117356--liters--(37000--gallons)--or--less--and properly--placed--in--accordance--with--92--Ill--Adm--Code--172--504(f);
- c) Ammonium--nitrate--fertilizer--when--moved--in--quantities--of--7257 kilograms--(16000--pounds)--(aggregate--gross--weight)--or--less;
- d) Anhydrous--ammonia--when--transported--in--a--cargo--tank--(commonly--known--as a--nurse--tank--and--considered--an--implement--of--husbandry)--operated--by private--carriers--exclusively--for--agricultural--purposes--provided--the cargo--tank:

- 1) Has--a--minimum--design--pressure--of--250--pounds--per--square--inch (ps--i)--and--meets--the--requirements--of--the--ASME--code--in--effect--at time--of--manufacture--and--is--marked--accordingly;
- 2) Is--equipped--with--safety--relief--valves--meeting--the--requirements--of 69A--Famphlet--51.2;
- 3) Is--painted--white--or--aluminum;
- 4) Has--a--capacity--of--7571--liters--(2000--gallons)--or--less;
- 5) Is--loaded--to--a--filling--density--of--56--percent--of--water--density--(0.5 percent--of--volume--capacity);
- 6) Is--securely--mounted--on--a--farm--wagon--and
- 7) Is--in--conformance--with--the--requirements--of--92--Ill--Adm--Code--172 except--that--shipping--papers--are--not--required--and--it--need--not--be marked--or--placed--on--one--end--if--that--end--contains--valves-- fittings--regulator--gauges--or--other--apparatuses--that--prevent the--marking--and--placement--from--being--properly--placed--and--visible.
- e) Formulated--agricultural--chemicals--not--listed--in--subsection--(a)--or--(e) above--which--are--offered--for--transportation--in--less--than--ease--lot quantities--or--when--repackaged--are--not--subject--to--92--Ill--Adm--Code 172--Subpart--B--and--the--outside--specification--packaging--requirements--of Part--173--if--all--of--the--following--conditions--are--met:
- 1) Inside--packagings--are--enclosed--in--strong--outside--packagings-- breakage--and--leakage;
- 2) Each--inside--packaging--does--not--exceed--10--liters--(2.6--gallons) capacity--for--liquids--or--15--kilograms--(33--pounds)--for--dry materials;

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 3) Gross--weight--of--less--than--ease--or--repackaged--lots--is--not--over--50 kilograms--(110--pounds)--in--each--vehicle;
- 4) Transportation--is--authorized--only--by--private--motor--vehicle between--a--final--distribution--point--and--the--ultimate--point--of application--if--that--distance--does--not--exceed--one--hundred--miles;
- f) Formulated--liquid--agricultural--chemicals--in--specification--packagings of--220--liters--(50--gallons)--capacity--or--less--with--closures--manifested to--a--closed--mixing--system--and--equipped--with--positive--dry--disconnect devices--may--be--transported--by--a--private--motor--carrier--between--a--final distribution--point--and--an--ultimate--point--of--application--or--loading aboard--an--aircraft--for--aerial--application.

(Source: Repealed at 22 Ill. Reg. 17011, effective SEP 30 1998)

Section 171.22 Agricultural Exception

- a) This Subchapter c does not apply to the transportation in Illinois of an agricultural product, other than Class 2 material, by a farmer as a private intrastate carrier over local roads between fields of the same farm in approved containers and in the amounts and manner specified in 49 CFR 173.5(b)(2) and (4).
- b) Transportation of an agricultural product to or from a farm, within 150 miles of the farm, in approved containers and conforming to 49 CFR 173.5(b)(1), (2) and (4) are excepted from the requirements in subparts G and H of 49 CFR 172.
- c) See also 49 CFR 173.5(c) pertaining to specification packagings used for aerial application of formulated liquid agricultural products.
- d) See also 49 CFR 173.315(m) pertaining to nurse tanks of anhydrous ammonia.
- e) See also 49 CFR 173.6 pertaining to materials of trade.

(Source: Added at 22 Ill. Reg. 17011, effective SEP 30 1998)

Section 171.1000 Incorporation by Reference of 49 CFR 171

- a) As Part 171 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates the following sections of 49 CFR 171 by reference, as those sections of the federal hazardous materials transportation regulations were in effect on October 1, 1997; as amended at 62 FR 65188, December 10, 1997; and as amended at 63 FR 37454, July 10, 1998 1996; as amended at 61 PR-659507--December 16--1996; as amended at 62 PR-12007-January-07-1997; as amended at 62 PR-12177-January-07-1997; as amended at 62 PR-76309-February-197-1997; as amended at 62 PR-246907-May-67-1997; as amended at 62 PR-296797-June-27--1997; as amended at 62 PR-307677-June-57-1997; as amended at 62 PR-346677-June-27-1997; as amended at 62 PR-399907-July-23--1997;

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

as-amended-at-62-PR-448987-August-187-1997-as-amended-at-62-PR-449137-August-257-1997-as-amended-at-62-PR-495687-September-22-1997-and-as-amended-at-62-PR-515547-October-17-1997, subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of those sections of 49 CFR 171 are incorporated.

- 171.4 Marine Pollutions
- 171.5 Temporary Regulation: Liquefied Compressed Gases in Cargo Tank Motor Vehicles
- 171.7 Referenced Material
- 171.8 Definitions and Abbreviations
- 171.9 Rules of Construction
- 171.10 Units of Measure
- 171.11 Use of ICAO Technical Instructions
- 171.12 Import and Export Shipments
- 171.12a Canadian Shipments and Packagings
- 171.14 Transitional Provisions for Implementing Requirements Based on the UN Recommendations
- 171.18 Continuation of Effectiveness of Existing Bureau of Explosives Registrations
- 171.19 Approvals or Authorizations Issued by the Bureau of Explosives
- 171.20 Submission of Examination Reports

b) The following interpretations of, additions to and deletions from the above incorporated sections of 49 CFR 171 shall apply for purposes of this Part.

- 1) All references to "this part" in the incorporated federal regulations shall mean Part 171 of the Illinois Hazardous Materials Transportation Regulations.
- 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.
- 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
- 4) All references to Part 176 or to sections therein shall be read to refer to that part or sections in the federal regulations.
- 5) All references to shipments of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.
- 6) All references to "these regulations" refer to the Illinois Hazardous Materials Transportation Regulations, 92 Ill. Adm. Code 107 through 180.
- 7) All references to a "settlement agreement", in these regulations,

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

means a written understanding between the Department and the person being charged.

(Source: Amended at 22 Ill. Reg. 17011, effective SEP 30 1998)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Hazardous Materials Table and Hazardous Materials Communications

2) Code Citation: 92 Ill. Adm. Code 172

3) Section Numbers: 172.2000
Adopted Action: Amend

4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)]

5) Effective Date of Amendments: September 30, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes

These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.

8) A copy of the Adopted Amendments, including any material incorporated by reference, is on file at the Department's Division of Traffic Safety and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: June 12, 1998, 22 Ill. Reg. 10302

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: Various grammatical changes have been made at JCAR's suggestion.

Additionally, the Department revised the Notice and Section 172.2000(a) to include, pursuant to public comment, another federal rulemaking cited as "63 FR 37454, July 10, 1998".

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace an emergency amendment currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: By this Notice of Adopted Amendments, the Department has updated the date of incorporation by reference of 49 CFR 172, as of October 1, 1997, and has included the federal rulemakings

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

adopted at 63 FR 16070, April 1, 1998 and 63 FR 37454, July 10, 1998.

The Department's regulations have incorporated changes made in the following Dockets:

Docket HM-206 (63 FR 16070, April 1, 1998): Clarifies the requirement for the display of identification numbers for large shipments of hazardous materials; revises the requirement for the display of ID numbers for non-bulk packages of HM poisonous by inhalation in Hazard Zones A and B; and revises the marking of a telephone number on the exterior of a transport vehicle containing hazardous materials.

Docket HM-166Y (63 FR 37454, July 10, 1998): Amends the Hazardous Materials Regulations by incorporating miscellaneous changes in order to update, clarify or provide relief from certain regulatory requirements.

16) Information and questions regarding this adopted amendment shall be directed to:

Ms. Cathy Allen
Regulations Unit
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 172

HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS

Section
172.1000 General
172.2000 Incorporation by Reference of 49 CFR 172
172.2215 Permanent Shipping Papers (Repealed)

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; amended at 6 Ill. Reg. 4287, 4487 and 4573, effective April 16, 1982; amended at 7 Ill. Reg. 3486, effective April 2, 1983; amended at 8 Ill. Reg. 19640, effective October 1, 1984; codified at 8 Ill. Reg. 19601; amended at 8 Ill. Reg. 19622, effective October 1, 1984; emergency amendment at 8 Ill. Reg. 22889, effective November 9, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 3810, effective March 11, 1985; Part repealed, new Part adopted at 10 Ill. Reg. 5864, effective April 1, 1986; amended at 10 Ill. Reg. 20759, effective December 1, 1986; emergency amendment at 11 Ill. Reg. 1690, effective January 16, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 4777, effective March 10, 1987; amended at 11 Ill. Reg. 7773, effective April 14, 1987; amended at 11 Ill. Reg. 17893, effective October 20, 1987; amended at 12 Ill. Reg. 8084, effective April 26, 1988; amended at 13 Ill. Reg. 3993, effective March 14, 1989; amended at 14 Ill. Reg. 2628, effective February 1, 1990; amended at 15 Ill. Reg. 7760, effective May 7, 1991; amended at 16 Ill. Reg. 11851, effective July 13, 1992; amended at 18 Ill. Reg. 7874, effective May 6, 1994; amended at 20 Ill. Reg. 6549, effective April 30, 1996; amended at 22 Ill. Reg. 5703, effective March 4, 1998; amended at 22 Ill. Reg. 17019, effective SEP 30 1998.

Section 172.2000 Incorporation by Reference of 49 CFR 172

- a) As Part 172 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates 49 CFR 172 by reference, as that Part of the federal hazardous materials transportation regulations was in effect on October 1, 1997, as amended at 63 FR 16070, April 1, 1998 and as amended at 63 FR 37454, July 10, 1998 19967--as--amended-at-62-FR-12177--January-87-19977--as--amended-at-62-FR-14347--March-267-19977--as--amended-at-62-FR-246987--May--67--19977--as--amended--at-62-FR-307677--June-57-19977--as--amended-at-62-FR-346677--June-27-19977--as--amended-at-62-FR-393907--July-227-19977--as--amended--at--62-FR--457037--August--207--19977--as--amended-at-62-FR-462147--September-27-19977--and-as--amended-at-62-FR-515547--October-17-19977, subject only to

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

the exceptions in subsection (b) of this Section. No later amendments to or editions of 49 CFR 172 are incorporated.

- b) The following interpretations of, additions to and deletions from 49 CFR 172 shall apply for purposes of this Part.

- 1) All references to "this part" in the incorporated federal Regulations shall mean Part 172 of the Illinois Hazardous Materials Transportation Regulations.
- 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.
- 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
- 4) All references to Parts 174, 175, or 176, or to sections therein shall be read to refer to those parts or sections in the federal hazardous materials transportation regulations.
- 5) All references to shipment of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.
- 6) Any changes to 49 CFR 172 made effective by U.S. DOT Rulemaking Docket HM-187 [49 FR 21933 (May 24, 1984)] covering small arms ammunition are not incorporated.

(Source: Amended at 22 Ill. Reg. 17019, effective SEP 30 1998)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Procedures
- 2) Code Citation: 92 Ill. Adm. Code 107
- 3) Section Numbers: Adopted Action:
107.601 Amend
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)]
- 5) Effective Date of Amendments: September 30, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
- These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.
- 8) A copy of the Adopted Amendments, including any material incorporated by reference, is on file at the Department's Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register:
June 12, 1998, 22 Ill. Reg. 10306
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version:
The following change was made at JCAR's suggestion:
The word "Subject" is now in lower case in Section 107.601.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will these amendments replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: By this Notice of Adopted Amendments, the Department is updating the date of incorporation by reference of 49 CFR 107, Subpart G as of October 1, 1997.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 16) Information and questions regarding this adopted amendment shall be directed to:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 107
PROCEDURES

SUBPART A: GENERAL PROVISIONS

Section

107.1 Purpose and Scope
107.3 Definitions
107.5 Request for Confidential Treatment
107.11 Service
107.13 Subpoenas

SUBPART B: EXEMPTIONS

Section

107.101 Purpose and Scope
107.102 Persons Holding Federal Exemptions
107.103 Applications for Exemptions for Persons Transporting Hazardous Materials Not Governed by the Federal Hazardous Materials Regulations
107.105 Application for Renewal
107.107 Initial Application Review
107.109 Processing of Application
107.111 Party to an Exemption
107.117 Withdrawal
107.119 Termination
107.121 Appeal
107.123 Availability for Public Inspection

SUBPART D: ENFORCEMENT

Section

107.301 Responsibility for Enforcement
107.303 Purpose and Scope
107.305 Investigations
107.307 Inspection and Examination of Records and Properties
107.308 Notice of Apparent Violation
107.309 Stopping of Vehicles
107.310 Department Review of Notice of Apparent Violation
107.311 Warning Letter
107.313 Civil Penalties Generally
107.314 Maximum Penalties
107.315 Commencement of Civil Penalty Proceeding
107.316 Reply
107.317 Payment of Penalty
107.318 Request for Hearing

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Hearing

107.319 Presiding Officer's Decision
107.320 Assessment Considerations
107.321 Appeal
107.323 Compliance Orders Generally
107.331 Notice of Probable Violation
107.333 Reply
107.334 Consent Order
107.335 Hearing
107.336 Presiding Officer's Decision
107.337 Compliance Order For Immediate Compliance
107.338 Appeal
107.339 Injunctions and Other Equitable Relief
107.341 Imminent Hazards
107.343 Criminal Penalties Generally
107.371 Referral for Prosecution
107.373

SUBPART E: REGISTRATION OF PERSONS WHO OFFER OR TRANSPORT HAZARDOUS MATERIALS

Section

107.601 Incorporation by Reference of 49 CFR 107, Subpart G

APPENDIX A

Standard Conditions Applicable to Exemptions, Containers, Shipments Packages,

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; amended at 3 Ill. Reg. 49, p. 273, effective December 10, 1979; amended at 6 Ill. Reg. 4287, effective April 16, 1982; codified at 8 Ill. Reg. 17979; amended at 10 Ill. Reg. 5876, effective April 1, 1986; amended at 14 Ill. Reg. 2633, effective February 1, 1990; amended at 14 Ill. Reg. 8189, effective May 15, 1990; amended at 18 Ill. Reg. 7881, effective May 6, 1994; amended at 20 Ill. Reg. 6554, effective April 30, 1996; amended at 22 Ill. Reg. 5708, effective March 4, 1998; amended at 22 Ill. Reg. 18023, effective

SEP 30 1998

SUBPART E: REGISTRATION OF PERSONS WHO OFFER OR TRANSPORT HAZARDOUS MATERIALS

Section 107.601 Incorporation by Reference of 49 CFR 107, Subpart G

a) 49 CFR 107, subpart Subpart G is hereby incorporated by reference as that subpart Subpart of the Hazardous Materials Transportation Regulations was in effect on October 1, 1997. No later amendments to or editions of 49 CFR 107, subpart Subpart G are

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

incorporated.

- b) The following interpretations of, additions to and deletions from 49 CFR 107, Subpart G shall apply for the purposes of this Subpart.

- 1) Any reference to "this Part" in the incorporated material shall mean 92 Ill. Adm. Code 107.
- 2) Any reference to "this Chapter" or "this Subchapter" in the incorporated material shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.
- 3) Any reference to a section in the incorporated material shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.

(Source: Amended at 22 Ill. Reg. 17023, effective SEP 30 1998)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Shippers General Requirements for Shipments and Packagings

- 2) Code Citation: 92 Ill. Adm. Code 173

- 3) Section Numbers: Adopted Action:
173.3000 Amend

- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)]

- 5) Effective Date of Amendments: September 30, 1998

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this amendment contain incorporations by reference? Yes

These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.

- 8) A copy of the Adopted Amendments, including any material incorporated by reference, is on file in the Department's Division of Traffic Safety and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: June 12, 1998, 22 Ill. Reg. 10311

- 10) Has JCAR issued a Statement of Objections to these rules? No

- 11) Differences between proposal and final version:

Various grammatical corrections have been made at JCAR's suggestion.

Additionally, the Department revised the Notice and Section 173.3000(a) to include the federal rulemaking cited as "63 FR 37454, July 10, 1998".

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes

- 13) Will these amendments replace an emergency amendment currently in effect?
No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Amendments:

By this Notice of Adopted Amendments, the Department has updated the date

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

of incorporation by reference of 49 CFR 173, as of October 1, 1997, and has included the federal rulemakings adopted at 63 FR 1884, January 12, 1998 and 63 FR 8140, February 18, 1998 and 63 FR 37454, July 10, 1998.

The Department's regulations incorporate changes made in the following Dockets:

Docket HM-215B (63 FR 1884, January 12, 1998): Corrects a minor error in the May 6, 1997 final rule.

Docket HM-200 (63 FR 8140, February 18, 1998): Corrects the date (October 1, 1998) for states to develop legislation authorizing certain exceptions recognized in the HMR; clarifies packaging requirements for HM transported for agricultural operations; corrects size requirements for identification number marking; and clarifies provisions for the use of non-specification cargo tanks transporting gasoline.

Docket HM-166Y (63 FR 37454, July 10, 1998): Amends the Hazardous Materials Regulations by incorporating miscellaneous changes in order to update, clarify or provide relief from certain regulatory requirements.

16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 173
SHIPPERS GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

Section
173.2000 General
173.3000 Incorporation by Reference of 49 CFR 173

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, P. A1, effective February 1, 1979; amended at 4 Ill. Reg. 30, P. 1244, effective July 10, 1980; amended at 5 Ill. Reg. 1715, effective February 9, 1981; amended at 6 Ill. Reg. 4287, effective April 16, 1982; amended at 6 Ill. Reg. 10036, effective August 2, 1982; amended at 7 Ill. Reg. 3486, effective April 12, 1983; codified at 8 Ill. Reg. 20015; Part repealed, new Part adopted at 10 Ill. Reg. 5886, effective April 1, 1986; amended at 10 Ill. Reg. 20764, effective December 1, 1986; amended at 11 Ill. Reg. 4781, effective March 10, 1987; amended at 11 Ill. Reg. 17898, effective October 20, 1987; amended at 12 Ill. Reg. 8089, effective April 26, 1988; amended at 13 Ill. Reg. 3998, effective March 14, 1989; amended at 14 Ill. Reg. 2651, effective February 1, 1990; amended at 15 Ill. Reg. 7765, effective May 7, 1991; amended at 16 Ill. Reg. 11856, effective July 13, 1992; amended at 18 Ill. Reg. 7895, effective May 6, 1994; amended at 20 Ill. Reg. 6560, effective April 30, 1996; amended at 22 Ill. Reg. 5720, effective March 4, 1998; amended at 22 Ill. Reg. 17025, effective SEP 30 1998.

Section 173.3000 Incorporation by Reference of 49 CFR 173

- a) As Part 173 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates 49 CFR 173 by reference, as that Part of the federal hazardous materials transportation regulations was in effect on October 1, 1997, as amended at 63 FR 1884, January 12, 1998; as amended at 63 FR 8140, February 18, 1998; and as amended at 63 FR 37454, July 10, 1998 19967-as-amended-at-61-PR-609527--December-307-19967-as-amended-at-62-PR-1288--January--07--19977-as--amended-at-62-PR-12177--January-07-19977-as-amended-at-62-PR-143347 March-267-19977-as-amended-at-62-PR-246907-May-67-19977-as-amended-at-62-PR-457027-August-207-19977-as-amended-at-62-PR-495607-September-227 19977--and-as-amended-at-62-PR-515547-October-17-1997, subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of 49 CFR 173 are incorporated.
- b) The following interpretations of, additions to and deletions from 49 CFR 173 shall apply for purposes of this Part.
 - 1) All references to "this part" in the incorporated federal

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

regulations shall mean Part 173 of the Illinois Hazardous Materials Transportation Regulations.

- 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.
- 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
- 4) All references to parts 174, 175 or 176 or to sections therein shall be read to refer to those parts or sections in the federal hazardous materials transportation regulations.
- 5) All references to shipment of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.
- 6) Any changes to 49 CFR 173 made effective by U.S. DOT Rulemaking Rulemaking Docket HM-187 (49 FR 21933 (May 24, 1984)) covering small arms ammunition are not incorporated.
- 7) 49 CFR 173.8(d)(3) is not incorporated by reference and is replaced by the following:
A non-specification metal tank having a capacity of less than 450 liters (119 gallons) is authorized in Illinois for the transportation of flammable liquid petroleum products by an intrastate motor carrier subject to the following conditions:
A) Containers shall be tanks constructed of 18 gauge or heavier steel or equivalent gauge aluminum.
B) Tanks shall be securely fastened to prevent separation from the vehicle.
C) Tanks shall be electrically bonded to the frame of the vehicle.
D) Tanks shall be protected against leakage or damage in the event of a turnover.
E) Tanks may not be drained by gravity. Top mounted pumps must be designed and labeled for use with flammable and combustible liquids. No top mounted pump shall be higher than the highest point of the vehicle or permanently attached appurtenances (i.e., roll bars).
F) Flammable liquid petroleum products being transported on a single vehicle may not exceed 450 liters (119 gallons).
G) Flammable liquid petroleum product is offered for transportation and transported in conformance with all other applicable requirements of this Subchapter.

(Source: Amended at 22 Ill. Reg. 17028, effective SEP 30 1993)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Specifications for Packagings

2) Code Citation: 92 Ill. Adm. Code 178

3) Section Numbers: Adopted Action:
178.2000 Amend

4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)]

5) Effective date of Amendments: September 30, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? Yes

These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.

8) A copy of the Adopted Amendments, including any material incorporated by reference, is on file at the Department's Division of Traffic Safety and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: June 12, 1998, 22 Ill. Reg. 10315

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Differences between proposal and final version: Various grammatical corrections have been made at JCAR's suggestion.

Additionally, the Department revised Section 178.2000(a) and the Notice, where appropriate, to include another federal rulemaking cited as "63 FR 37454, July 10, 1998".

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No changes were necessary.

13) Will these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: By this Notice of Adopted Amendments, the Department has updated the date of incorporation by reference of 49 CFR 178, as of October 1, 1997 and has included the federal rulemaking

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

adopted at 63 FR 37454, July 10, 1998.

The Department's regulations will incorporate changes made in the following Docket:

Docket HM-166Y (63 FR 37454, July 10, 1998): Amends the Hazardous Materials Regulations by incorporating miscellaneous changes in order to update, clarify or provide relief from certain regulatory requirements.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 178

SPECIFICATIONS FOR PACKAGINGS

Section	
178.321	Specification MC 300; Cargo Tanks Constructed of Mild (Open Hearth or Blue Annealed) Steel, or Combination of Mild Steel with High Tensile Steel, or Stainless Steel, Primarily For the Transportation of Flammable Liquids or Poisonous Liquids, Class B
178.321.0.1	[178.321-1] General Requirements
178.321.0.2	[178.321-2] Material
178.321.0.3	[178.321-3] Thickness
178.321.0.4	[178.321-4] Joints
178.321.0.5	[178.321-5] Bulkheads, Baffles, and Ring Stiffeners
178.321.0.6	[178.321-6] Closures for Manholes
178.321.0.7	[178.321-7] Overturn Protection
178.321.0.8	[178.321-8] Outlets
178.321.0.9	[178.321-9] Vents, Valves, and Connections
178.321.1.0	[178.321-10] Protection of Fittings
178.321.1.1	[178.321-11] Emergency Discharge Control
178.321.1.2	[178.321-12] Shear Section
178.321.1.3	[178.321-13] Anchoring of Tank
178.321.1.4	[178.321-14] Gauging Devices
178.321.1.5	[178.321-15] Pumps
178.321.1.6	[178.321-16] Testing Requirements
178.321.1.7	[178.321-17] Marking of Cargo Tanks
178.321.1.8	[178.321-18] Certification
178.322	Specification MC 301; Cargo Tanks Constructed of Welded Aluminum Alloy (Grade 3S), To Be Mounted On and To Form Part Of Tank Motor Vehicles for Transportation of Flammable Liquids, and Poisonous Liquids, Class B
178.322.0.1	[178.322-1] General Requirements
178.322.0.3	[178.322-3] Certification
178.322.0.5	[178.322-5] Marking of Cargo Tanks
178.322.0.9	[178.322-9] Testing Requirements
178.322.1.1	[178.322-11] Material
178.322.1.2	[178.322-12] Thickness of Sheets and Ring Stiffeners
178.322.1.3	[178.322-13] Tolerance
178.322.1.4	[178.322-14] Joints
178.322.1.7	[178.322-17] Tank Outlets
178.322.1.8	[178.322-18] Bulkheads, Baffles, and Ring Stiffeners
178.322.1.9	[178.322-19] Tank Vents
178.322.2.0	[178.322-20] Valve and Faucet Connections
178.322.2.1	[178.322-21] Emergency Discharge Control
178.322.2.2	[178.322-22] Shear Section
178.322.2.3	[178.322-23] Protection of Valves and Faucets

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

178.322.2.4 [178.322-24] Overturn Protection
 178.323 Specification MC 302; Cargo Tanks Constructed of Welded Aluminum Alloy (ASTM B209-57R), Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B

178.323.0.1 [178.323-1] General Requirements
 178.323.0.2 [178.323-2] Material
 178.323.0.3 [178.323-3] Thickness of Metal
 178.323.0.4 [178.323-4] Joints
 178.323.0.5 [178.323-5] Bulkheads, Baffles, and Ring Stiffeners
 178.323.0.6 [178.323-6] Closures for Manholes
 178.323.0.7 [178.323-7] Overturn Protection
 178.323.0.8 [178.323-8] Tank Outlets
 178.323.0.9 [178.323-9] Vents, Valves, and Connections
 178.323.1.0 [178.323-10] Protection of Fittings
 178.323.1.1 [178.323-11] Emergency Discharge Control
 178.323.1.2 [178.323-12] Shear Section
 178.323.1.3 [178.323-13] Anchoring of Tank
 178.323.1.4 [178.323-14] Gauging Devices
 178.323.1.5 [178.323-15] Pumps
 178.323.1.6 [178.323-16] Testing Requirements
 178.323.1.7 [178.323-17] Marking of Cargo Tanks
 178.323.1.8 [178.323-18] Certification

178.324 Specification MC 303; Cargo Tanks Constructed of Welded Ferrous Alloy (High-Tensile Steel), or Stainless Steel, Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B

178.324.0.1 [178.324-1] General Requirements
 178.324.0.2 [178.324-2] Material
 178.324.0.3 [178.324-3] Thickness of Metal
 178.324.0.4 [178.324-4] Joints
 178.324.0.5 [178.324-5] Bulkheads, Baffles, and Ring Stiffeners
 178.324.0.6 [178.324-6] Closures for Manholes
 178.324.0.7 [178.324-7] Overturn Protection
 178.324.0.8 [178.324-8] Outlets
 178.324.0.9 [178.324-9] Vents, Valves, and Connections
 178.324.1.0 [178.324-10] Protection of Fittings
 178.324.1.1 [178.324-11] Emergency Discharge Control
 178.324.1.2 [178.324-12] Shear Section
 178.324.1.3 [178.324-13] Anchoring of Tank
 178.324.1.4 [178.324-14] Gauging Devices
 178.324.1.5 [178.324-15] Pumps
 178.324.1.6 [178.324-16] Testing Requirements
 178.324.1.7 [178.324-17] Marking of Cargo Tanks
 178.324.1.8 [178.324-18] Certification

178.325 Specification MC 304; Cargo Tanks Constructed of Mild (Open Hearth or Blue Annealed) Steel, Welded Ferrous Alloy (High-Tensile) Steel, or Aluminum, Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

B, Having Reid (ASTM D-323) Vapor Pressures of 18 PSIA or More at 100 degrees F., But Less Than Those Stated in 92 Ill. Adm. Code 173.300, In Defining Compressed Gases

178.325.0.1 [178.325-1] General Requirements
 178.325.0.2 [178.325-2] Material
 178.325.0.3 [178.325-3] Thickness of Metal
 178.325.0.4 [178.325-4] Joints
 178.325.0.5 [178.325-5] Bulkheads, Baffles, and Ring Stiffeners
 178.325.0.6 [178.325-6] Closures for Manholes
 178.325.0.7 [178.325-7] Overturn Protection
 178.325.0.8 [178.325-8] Tank Outlets
 178.325.0.9 [178.325-9] Safety Relief Devices, Valves, and Connections
 178.325.1.0 [178.325-10] Protection of Fittings
 178.325.1.1 [178.325-11] Emergency Discharge Control
 178.325.1.2 [178.325-12] Shear Section
 178.325.1.3 [178.325-13] Anchoring of Cargo Tank
 178.325.1.4 [178.325-14] Gauging Devices
 178.325.1.5 [178.325-15] Pumps
 178.325.1.6 [178.325-16] Testing Requirements
 178.325.1.7 [178.325-17] Marking of Cargo Tanks
 178.325.1.8 [178.325-18] Certification

178.326 Specification MC 305; Cargo Tanks Constructed of Aluminum Alloys for High-Strength Welded Construction, Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B

178.326.0.1 [178.326-1] General Requirements
 178.326.0.2 [178.326-2] Material
 178.326.0.3 [178.326-3] Thickness of Sheets
 178.326.0.4 [178.326-4] Joints
 178.326.0.5 [178.326-5] Bulkheads, Baffles, and Ring Stiffeners
 178.326.0.6 [178.326-6] Closures for Manholes
 178.326.0.7 [178.326-7] Overturn Protection
 178.326.0.8 [178.326-8] Tank Outlets
 178.326.0.9 [178.326-9] Vents, Valves, and Connections
 178.326.1.0 [178.326-10] Protection of Fittings
 178.326.1.1 [178.326-11] Emergency Discharge Control
 178.326.1.2 [178.326-12] Shear Section
 178.326.1.3 [178.326-13] Anchoring of Cargo Tank
 178.326.1.4 [178.326-14] Gauging Devices
 178.326.1.5 [178.326-15] Pumps
 178.326.1.6 [178.326-16] Testing Requirements
 178.326.1.7 [178.326-17] Marking of Cargo Tanks
 178.326.1.8 [178.326-18] Certification

178.330 Specification MC 310; Cargo Tanks Constructed of Ferrous Materials, Primarily For the Transportation of Corrosive Liquids

178.330.0.1 [178.330-1] General Requirements
 178.330.0.2 [178.330-2] Material
 178.330.0.3 [178.330-3] Thickness of Metal

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

178.330.0.4 [178.330-4] Joints
 178.330.0.5 [178.330-5] Bulkheads, Baffles, Ring Stiffeners, Tank Supports, and Compartmentation
 178.330.0.6 [178.330-6] Closures for Manholes
 178.330.0.7 [178.330-7] Overturn Protection
 178.330.0.8 [178.330-8] Outlets
 178.330.0.9 [178.330-9] Vents, Valves, and Connections
 178.330.1.0 [178.330-10] Protection of Fittings
 178.330.1.1 [178.330-11] Emergency Discharge Control
 178.330.1.2 [178.330-12] Shear Section
 178.330.1.3 [178.330-13] Anchoring of Tank
 178.330.1.4 [178.330-14] Gauging Devices
 178.330.1.5 [178.330-15] Pumps and Compressors
 178.330.1.6 [178.330-16] Testing Requirements
 178.330.1.7 [178.330-17] Marking of Cargo Tanks
 178.330.1.8 [178.330-18] Certification
 178.331 Specification MC 311; Cargo Tanks Constructed of Ferrous Metals or Aluminum, Primarily For the Transportation of Corrosive Liquids
 178.331.0.1 [178.331-1] General Requirements
 178.331.0.2 [178.331-2] Material
 178.331.0.3 [178.331-3] Thickness of Metal
 178.331.0.4 [178.331-4] Joints
 178.331.0.5 [178.331-5] Bulkheads, Baffles, Ring Stiffeners, Tank Supports, and Compartmentation
 178.331.0.6 [178.331-6] Closures for Manholes
 178.331.0.7 [178.331-7] Overturn Protection
 178.331.0.8 [178.331-8] Outlets
 178.331.0.9 [178.331-9] Vents, Valves, and Connections
 178.331.1.0 [178.331-10] Protection of Fittings
 178.331.1.1 [178.331-11] Emergency Discharge Control
 178.331.1.2 [178.331-12] Shear Section
 178.331.1.3 [178.331-13] Anchoring of Tank
 178.331.1.4 [178.331-14] Gauging Devices
 178.331.1.5 [178.331-15] Pumps and Compressors
 178.331.1.6 [178.331-16] Testing Requirements
 178.331.1.7 [178.331-17] Marking of Cargo Tanks
 178.331.1.8 [178.331-18] Certification
 178.336 Specification MC 330; Cargo Tanks Constructed of Steel, Primarily For Transportation of Compressed Gases
 178.336.0.1 [178.336-1] General Requirements
 178.336.0.2 [178.336-2] Thickness of Metal
 178.336.0.3 [178.336-3] Joints
 178.336.0.4 [178.336-4] Bulkheads, Baffles, and Ring Stiffeners
 178.336.0.5 [178.336-5] Bulkheads, Baffles, and Ring Stiffeners
 178.336.0.6 [178.336-6] Closures for Manholes
 178.336.0.7 [178.336-7] Overturn Protection
 178.336.0.8 [178.336-8] Outlets

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

178.336.0.9 [178.336-9] Safety Relief Devices, Valves, and Connections
 178.336.1.0 [178.336-10] Protection of Fittings
 178.336.1.1 [178.336-11] Emergency Discharge Control
 178.336.1.2 [178.336-12] Shear Section
 178.336.1.3 [178.336-13] Anchoring of Cargo Tank
 178.336.1.4 [178.336-14] Gauging Devices
 178.336.1.5 [178.336-15] Pumps and Compressors
 178.336.1.6 [178.336-16] Testing Requirements
 178.336.1.7 [178.336-17] Marking of Cargo Tanks
 178.336.1.8 [178.336-18] Certification
 178.337 Specification MC 331; Cargo Tanks Constructed of Steel, Primarily For Transportation of Compressed Gases, As Defined In the Compressed Gas Section (Repealed)
 178.337.0.1 [178.337-1] General Requirements (Repealed)
 178.337.0.2 [178.337-2] Material (Repealed)
 178.337.0.3 [178.337-3] Thickness of Tank Metal (Repealed)
 178.337.0.4 [178.337-4] Joints (Repealed)
 178.337.0.5 [178.337-5] Bulkheads, Baffles, and Ring Stiffeners (Repealed)
 178.337.0.6 [178.337-6] Closure for Manhole (Repealed)
 178.337.0.7 [178.337-7] Overturn Protection (Repealed)
 178.337.0.8 [178.337-8] Outlets (Repealed)
 178.337.0.9 [178.337-9] Safety Relief Devices, Valves, and Connections (Repealed)
 178.337.1.0 [178.337-10] Protection of Fittings (Repealed)
 178.337.1.1 [178.337-11] Emergency Discharge Control (Repealed)
 178.337.1.2 [178.337-12] Shear Section (Repealed)
 178.337.1.3 [178.337-13] Supporting and Anchoring (Repealed)
 178.337.1.4 [178.337-14] Gauging Devices (Repealed)
 178.337.1.5 [178.337-15] Pumps and Compressors (Repealed)
 178.337.1.6 [178.337-16] Testing (Repealed)
 178.337.1.7 [178.337-17] Marking (Repealed)
 178.337.1.8 [178.337-18] Certification (Repealed)
 178.340 General Design and Construction Requirements Applicable to Specifications MC 306 (Section 178.341), MC 307 (Section 178.342), and MC 312 (Section 178.343) Cargo Tanks (Repealed)
 178.340.0.1 [178.340-1] Specification Requirements For MC 306, MC 307, and MC 312 Cargo Tanks (Repealed)
 178.340.0.2 [178.340-2] General Requirements (Repealed)
 178.340.0.3 [178.340-3] Material (Repealed)
 178.340.0.4 [178.340-4] Structural Integrity (Repealed)
 178.340.0.5 [178.340-5] Joints (Repealed)
 178.340.0.6 [178.340-6] Supports and Anchoring (Repealed)
 178.340.0.7 [178.340-7] Circumferential Reinforcements (Repealed)
 178.340.0.8 [178.340-8] Accident Damage Protection (Repealed)
 178.340.0.9 [178.340-9] Pumps (Repealed)
 178.340.1.0 [178.340-10] Certification (Repealed)
 178.341 Specification MC 306; Cargo Tanks (Repealed)
 178.341.0.1 [178.341-1] General Requirements (Repealed)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 178.341.0.2 [178.341-2] Thickness of Shells, Heads, Bulkheads, and Baffles (Repealed)
- 178.341.0.3 [178.341-3] Closures for Fill Openings and Manholes (Repealed)
- 178.341.0.4 [178.341-4] Vents (Repealed)
- 178.341.0.5 [178.341-5] Emergency Flow Control (Repealed)
- 178.341.0.6 [178.341-6] Gauging Devices (Repealed)
- 178.341.0.7 [178.341-7] Method of Test (Repealed)
- 178.342 [Specification MC 307; Cargo Tanks (Repealed)]
- 178.342.0.1 [178.342-1] General Requirements (Repealed)
- 178.342.0.2 [178.342-2] Thickness of Shell, Heads, Bulkheads, and Baffles (Repealed)
- 178.342.0.3 [178.342-3] Closures for Manholes (Repealed)
- 178.342.0.4 [178.342-4] Vents (Repealed)
- 178.342.0.5 [178.342-5] Outlets (Repealed)
- 178.342.0.6 [178.342-6] Gauging Devices (Repealed)
- 178.342.0.7 [178.342-7] Method of Test (Repealed)
- 178.343 [Specification MC 312; Cargo Tanks (Repealed)]
- 178.343.0.1 [178.343-1] General Requirements (Repealed)
- 178.343.0.2 [178.343-2] Thickness of Shell, Heads, Bulkheads, and Baffles of Non-Asme Code Tanks (Repealed)
- 178.343.0.3 [178.343-3] Closures for Manholes (Repealed)
- 178.343.0.4 [178.343-4] Vents (Repealed)
- 178.343.0.5 [178.343-5] Outlets (Repealed)
- 178.343.0.6 [178.343-6] Gauging Devices (Repealed)
- 178.343.0.7 [178.343-7] Method of Test (Repealed)
- 178.350 [Specification 7A; General Packaging, Type A (Repealed)]
- 178.350.0.1 [178.350-1] General Requirements (Repealed)
- 178.350.0.2 [178.350-2] Specific Requirements (Repealed)
- 178.350.0.3 [178.350-3] Marking (Repealed)
- 178.1000 General
- 178.2000 Incorporation by Reference of 49 CFR 178

APPENDIX C Tensile Specimen

APPENDIX D Material Thickness (Repealed)

TABLE A Minimum Thickness of Heads, Bulkheads, and Baffles (Repealed)

TABLE B Minimum Thickness of Shell Sheets (Repealed)

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; amended at 5 Ill. Reg. 1715, effective February 9, 1981; amended at 6 Ill. Reg. 10036, effective August 2, 1982; amended at 8 Ill. Reg. 19640, effective October 1, 1984; codified at 8 Ill. Reg. 20047; amended at 8 Ill. Reg. 20064, effective October 1, 1984; amended at 10 Ill. Reg. 5897, effective April 1, 1986; amended at 10 Ill. Reg. 20770, effective December 1, 1986; amended at 11 Ill. Reg. 4786, effective March 10, 1987; amended at 11 Ill. Reg. 17904, effective October 20, 1987; amended at 12 Ill. Reg. 8093, effective April 26, 1988;

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

amended at 13 Ill. Reg. 4004, effective March 14, 1989; amended at 14 Ill. Reg. 2640, effective February 1, 1990; amended at 15 Ill. Reg. 7771, effective May 7, 1991; amended at 16 Ill. Reg. 11863, effective July 13, 1992; amended at 18 Ill. Reg. 7901, effective May 6, 1994; amended at 20 Ill. Reg. 6566, effective April 30, 1996; amended at 22 Ill. Reg. 5726, effective March 4, 1998; amended at 22 Ill. Reg. 17032, effective SEP 30 1998.

AGENCY NOTE: In reading this Part it is necessary to read Sections 178.1000 and 178.2000 prior to reading the remaining Sections in numerical order.

Section 178.2000 Incorporation by Reference of 49 CFR 178

- a) As Part 178 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates 49 CFR 178 by reference, as that Part of the federal hazardous materials transportation regulations was in effect on October 1, 1997; and as amended at 63 FR 37454, July 10, 1998 19967--as amended at 62 FR 143347--March 26, 1997; as amended at 62 FR 246907--May 67-1997; and as amended at 62 FR 515547--October 17--1997, subject only to the exceptions in subsection (f) of this Section. No later amendments to or editions of 49 CFR 178 are incorporated.
- b) As Section 178.340 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.340 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.
- c) As Section 178.341 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.341 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.
- d) As Section 178.342 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.342 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.
- e) As Section 178.343 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.343 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.
- f) The following interpretations of, additions to and deletions from the 49 CFR 178 shall apply for purposes of this Part.
- 1) All references to "this part" in the incorporated federal Materials Transportation Regulations.
 - 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.
 - 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Regulations.

- 4) All references to parts 174, 175 or 176, or to sections therein shall be read to refer to those parts or sections in the federal hazardous materials transportation regulations.

(Source: Amended at 22 Ill. Reg. 17032, effective SEP 30 1998)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Specifications for Tank Cars
- 2) Code Citation: 92 Ill. Adm. Code 179
- 3) Section Numbers: 179.2000
Adopted Action: Amend
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act (430 ILCS 30/4(a) and 9(a))
- 5) Effective date of Amendments: September 30, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.
- 8) A copy of the Adopted Amendments, including any material incorporated by reference, is on file at the Department's Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: June 12, 1998, 22 Ill. Reg. 10325
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Differences between proposal and final version: Various grammatical corrections were suggested by JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No changes were necessary.
- 13) Will this amendment replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: By this Notice of Adopted Amendments, the Department has updated the date of incorporation by reference of 49 CFR 179, as of October 1, 1997.
- 16) Information and questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Ms. Catherine Allen
 Illinois Department of Transportation
 Division of Traffic Safety
 P.O. Box 19212
 Springfield, Illinois 62794-9212
 (217) 785-1181

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
 CHAPTER I: DEPARTMENT OF TRANSPORTATION
 SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 179

SPECIFICATIONS FOR TANK CARS

Section

179.1000 General

179.2000 Incorporation By Reference of 49 CFR 179

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; amended at 6 Ill. Reg. 4287, effective April 16, 1982; old rules repealed, new rules adopted and codified at 8 Ill. Reg. 19677, effective October 1, 1984; amended at 10 Ill. Reg. 5909, effective April 1, 1986; amended at 10 Ill. Reg. 20824, effective December 1, 1986; amended at 11 Ill. Reg. 4796, effective March 10, 1987; amended at 11 Ill. Reg. 17915, effective October 20, 1987; amended at 12 Ill. Reg. 8102, effective April 26, 1988; amended at 15 Ill. Reg. 7781, effective May 7, 1991; amended at 16 Ill. Reg. 11875, effective July 13, 1992; amended at 18 Ill. Reg. 7912, effective May 6, 1994; amended at 20 Ill. Reg. 6577, effective April 30, 1996; amended at 22 Ill. Reg. 5736, effective March 4, 1998, amended at 22 Ill. Reg. 17049, effective March 4, 1998.

SEP 30 1998

Section 179.2000 Incorporation By Reference of 49 CFR 179

- a) As Part 179 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates the following sections of 49 CFR 179 by reference, as those sections of the federal hazardous materials transportation regulations were in effect on October 1, 1997 ~~1996~~ as amended at 62 FR 51554, October 17, 1997, subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of those sections of 49 CFR 179 of the federal regulations are incorporated.

General	179.1
Definitions and abbreviations	179.2
Certificate of Construction	179.5
Repairs and alterations	179.6
Quality Assurance program	179.7
Tank mounting	179.10
Welding certification	179.11
Interior heater systems	179.12
Tank-head puncture-resistance systems	179.16
Thermal protection systems	179.18

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 179.20 Service equipment; protection systems
 179.22 Marking
 179.300 General specifications applicable to multi-unit tank car tanks designed to be removed from car structure for filling and emptying (classes DOT-106A and 110AW)
 179.301 Individual specification requirements for multi-unit tank car tanks
- b) The following interpretations of, additions to and deletions from the above incorporated sections of 49 CFR 179 shall apply for purposes of this Part:
- 1) All references to "this part" in the incorporated federal regulations shall mean Part 179 of the Illinois Hazardous Materials Transportation Regulations.
 - 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.
 - 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations except references to Section 179.3 shall mean 49 CFR 179.3.
 - 4) 49 CFR 179.2(a)(4) is deleted and replaced by the following: "DOT" means the U.S. Department of Transportation and 'Department' means the Illinois Department of Transportation."

(Source: ~~August 1998~~ 22 Ill. Reg. 17042, effective)

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Child Support Enforcement
- 2) Code Citation: 89 Ill. Adm. Code 160
- 3) Section Numbers:
 160.10 Amendment
 160.20 Amendment
 160.60 Amendment
 160.61 Amendment
 160.65 Amendment
 160.70 Amendment
 160.75 Amendment
 160.88 New Section
 160.110 Amendment
 160.130 Amendment
Proposed Action:
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]; Public Act 90-790; Public Law 104-193; and Public Law 105-33.
- 5) Effective Date: September 10, 1998
- 6) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable
- 7) Date filed with the Index Department: September 10, 1998
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Reason for Emergency: This emergency rulemaking is being filed pursuant to Public Act 90-790 and federal requirements under the Personal Responsibility and Work Opportunity Act of 1996 and the Balanced Budget Act of 1997. These emergency amendments are necessary to implement changes in the Department's child support provisions concerning the administrative support and paternity process, assignment of support rights, income withholding, State case registry, support payments for former recipients, fraudulent transfers, high volume automated administrative enforcement in interstate cases and distribution of intercepted federal income tax refunds. Immediate implementation of these amendments is necessary to augment the effectiveness of child support enforcement in Illinois and assure compliance with legislative changes.
- 10) Complete Description of the Subjects and Issues Involved: These emergency amendments to the Department's administrative rules concerning child support enforcement are required for compliance with federal requirements under the Personal Responsibility and Work Opportunity Reconciliation Act

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

of 1996 (PRWORA) and the Balanced Budget Act of 1997, and implementation of program changes pursuant to Public Act 90-790. The amendments include the following changes:

Assignment of Rights to Support

These emergency amendments provide that for an assignment entered into prior to October 1, 1998, the applicant assigns to the Department all support that accrued prior to receiving public assistance, and all support that accrues during such assistance. For assignments entered into on or after October 1, 1998, support accrued during an applicant's receipt of assistance is assigned to the Department regardless of the method by which such support is collected. However, for such assignments entered into on or after October 1, 1998, support accrued before receipt of assistance is assigned to the Department only until the family ceases to receive assistance if that support is collected by a method other than federal income tax refund offset. The total amount of support assigned cannot exceed the cumulative amount of assistance provided during all periods of assistance.

Administrative Support and Paternity Process

These emergency changes provide the client with an appeal right regarding the Department's administrative paternity and support orders (currently, only the non-custodial parent can appeal such orders), and allow for petitions to vacate administrative orders by either party. The changes also provide for the serving of administrative orders on the non-custodial parent by regular mail; allow the Department to register another state's order administratively for purposes of enforcement and modification under the Uniform Interstate Family Support Act; provide that administrative process cases may be transferred within the State without the need to re-petition or reacquire jurisdiction; and provide for the treatment of foreign child support orders as Title IV-D child support cases.

High Volume, Automated Administrative Enforcement in Interstate Cases

These emergency changes regarding high volume, automated administrative enforcement in interstate cases are required by PRWORA and the federal Balanced Budget Act. The changes require Illinois to respond to requests from other states to use lien and levy and financial institution data match to collect from assets in this State and require Illinois to make such requests to other states.

Fraudulent Transfers

These emergency amendments clarify current language in the rules concerning the voiding of fraudulent transfers done to evade payment of child support.

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

Income Withholding

Emergency amendments on income withholding to secure payment of support add a definition on "business day" in accordance with PRWORA's definition. The changes also require Income Withholding Notices (IWN) served on employers to contain the signature of the obligee or printed name and phone number of the public office serving the IWN and require IWN to contain date of entry of underlying order for support. Further changes require that when IWN is served on the payor of income, a copy with proof of service must be filed with the circuit clerk and will delete the requirement that the IWN contain a computation of the delinquency.

State Case Registry

These emergency amendments establish an automated State Case Registry to contain records concerning child support orders. The Registry will contain extensive information about cases, children, support orders and payments for all IV-D cases and support order information for all non-IV-D orders entered on or after October 1, 1998.

Distribution of Support for Former Recipients

These changes provide that collections made by the Department representing current support payable to a former recipient family prior to receipt of assistance shall be paid to the former assistance family unless the collection was made through federal income tax offset.

Distribution of Intercepted Federal Income Tax Refunds

These changes conform with the provisions concerning assignment of support rights and amounts collected by federal income tax refund offset.

BUDGETARY EFFECT

There will be some increase in expenditures related to increased numbers of hearings as a result of allowing IV-D clients to appeal paternity and support decisions. However, the actual budgetary impact cannot be determined at this time.

The anticipated budgetary impact of the State Case Registry provisions for fiscal year 1999 is approximately \$500,000 for system modifications.

The potential budgetary impact on the Child Support Enforcement Trust Fund resulting from these changes includes the cost of system modifications due to changes in the child support distribution process and a reduction in assigned support monies that will be due the Department under the new assignment rules, thereby reducing retained TANF collections. The Department anticipates a cost of \$500,000 for this system modification in

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

fiscal year 1999. The extent of loss concerning the decrease in assigned support monies is not known at this time.

- 11) Are there any other proposed amendments pending on this Part? No
- 12) Statement of Statewide Policy Objectives: These emergency amendments do not affect units of local government.
- 13) Information and questions regarding these Emergency Amendments shall be directed to:

Joanne Jones
Bureau of Rules and Regulations
Illinois Department of Public Aid
201 South Grand Ave. E., Third Floor
Springfield, Illinois 62763
217/524-0081

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER f: COLLECTIONS

PART 160
CHILD SUPPORT ENFORCEMENT

SUBPART A: GENERAL PROVISIONS

Section	
160.1	Incorporation By Reference
160.5	Definitions
160.10	Child Support Enforcement Program
<u>EMERGENCY</u>	
160.12	Administrative Accountability Process
160.15	Application Processing Fee for IV-D Non-TANF Cases
160.20	Assignment of Rights to Support
<u>EMERGENCY</u>	
160.25	Recoupment

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section	
160.30	Cooperation With Support Enforcement Program
160.35	Good Cause for Failure to Cooperate with Support Enforcement
160.40	Proof of Good Cause For Failure to Cooperate With Support Enforcement
160.45	Suspension of Child Support Enforcement Upon Finding of Good Cause

SUBPART C: ESTABLISHMENT AND MODIFICATION OF
CHILD SUPPORT ORDERS

Section	
160.60	Establishment of Support Obligations
<u>EMERGENCY</u>	
160.61	Uncontested and Contested Administrative Paternity and Support
<u>EMERGENCY</u>	
160.62	Establishment with Paternity Establishment and Continued Eligibility
	Demonstration Program
160.65	Modification of Support Obligations
<u>EMERGENCY</u>	

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section	
160.70	Enforcement of Support Orders
<u>EMERGENCY</u>	
160.75	Withholding of Income to Secure Payment of Support
<u>EMERGENCY</u>	

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

160.77 Certifying Past-Due Support Information or Failure to Comply with a
 Subpoena or Warrant to State Licensing Agencies
 160.80 Amnesty - 20% Charge
 160.85 Diligent Efforts to Serve Process
 160.88 State Case Registry

EMERGENCY

SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

Section
 160.90 Earmarking Child Support Payments

SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

Section
 160.100 Distribution of Child Support for TANF Recipients
 160.110 Distribution of Child Support for Former AFDC
EMERGENCY or TANF Recipients Who Continue to Receive Child Support Enforcement
 Services

160.120 Distribution of Child Support Collected While the Client Was an AFDC
 or TANF Recipient, But Not Yet Distributed at the Time the AFDC or
 TANF Case Is Cancelled

160.130 Distribution of Intercepted Federal Income Tax Refunds and

EMERGENCY Other-State-Payments

160.132 Distribution of Child Support for Non-TANF Clients

160.134 Distribution of Child Support for Interstate Cases

160.136 Distribution of Child Support Collected in IV-E Foster Care
 Maintenance Cases

160.138 Distribution of Child Support for Medical Assistance No Grant Cases

SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

Section
 160.140 Statement of Child Support Account Activity

SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

Section
 160.150 Department Review of Distribution of Child Support for TANF
 Recipients
 160.160 Department Review of Distribution of Child Support for Former AFDC or
 TANF Recipients

AUTHORITY: Implementing and authorized by Sections 4-1.7, Art. X, 12-4.3 and
 12-13 of the Illinois Public Aid Code [305 ILCS 5/4-1.7, Art. X, 12-4.3 and
 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at
 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986;

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a
 maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987;
 amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment
 at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days;
 amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg.
 18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835,
 effective December 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg.
 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March
 21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13
 Ill. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768,
 effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November
 9, 1990; amended at 15 Ill. Reg. 1034, effective January 21, 1991; amended at
 16 Ill. Reg. 1852, effective January 20, 1992; amended at 16 Ill. Reg. 9997,
 effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11,
 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18
 Ill. Reg. 697, effective January 10, 1994; amended at 18 Ill. Reg. 12052,
 effective July 25, 1994; amended at 18 Ill. Reg. 15083, effective September 23,
 1994; amended at 18 Ill. Reg. 17886, effective November 30, 1994; amended at 19
 Ill. Reg. 1314, effective January 30, 1995; amended at 19 Ill. Reg. 8298,
 effective June 15, 1995; amended at 19 Ill. Reg. 12675, effective August 31,
 1995; emergency amendment at 19 Ill. Reg. 15494, effective October 30, 1995,
 for a maximum of 150 days; amended at 20 Ill. Reg. 1195, effective January 5,
 1996; amended at 20 Ill. Reg. 5659, effective March 28, 1996; emergency
 amendment at 20 Ill. Reg. 14002, effective October 15, 1996, for a maximum of
 150 days; amended at 21 Ill. Reg. 1189, effective January 10, 1997; amended at
 21 Ill. Reg. 3922, effective March 13, 1997; emergency amendment at 21 Ill.
 Reg. 8594, effective July 1, 1997, for a maximum of 150 days; emergency
 amendment at 21 Ill. Reg. 9220, effective July 1, 1997, for a maximum of 150
 days; amended at 21 Ill. Reg. 12197, effective August 22, 1997; amended at 21
 Ill. Reg. 16050, effective November 26, 1997; amended at 22 Ill. Reg. 14895,
 effective August 1, 1998; emergency amendment at 22 Ill. Reg. 17046,
 effective September 10, 1998, for a maximum of 150 days.

SUBPART A: GENERAL PROVISIONS

Section 160.10 Child Support Enforcement Program

EMERGENCY

a) Under Title IV-D of the Social Security Act (42 USC §-S-e- 651 et
 seq.) the Department undertakes to establish, modify, enforce and
 collect child and spouse support obligations from responsible
 relatives as defined in 89 Ill. Adm. Code 103.10. "IV-D cases"
 consist of:

- 1) children receiving Temporary Assistance for Needy Families
 (TANF);
- 2) children receiving AFDC MANG;
- 3) children receiving foster care maintenance payments under Title
 IV-E of the Social Security Act (42 USC §-S-e- 670 et seq.);

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- 4) children of applicants for TANF where the caretaker or specified relative is the putative father or relative of the putative father;
 - 5) children of applicants for TANF, where the mother and putative father of the children born out of wedlock are living together;
 - 6) children of applicants for TANF, where the caretaker relative is reapplying for cash or medical assistance and was in sanctioned status for noncooperation at the time the case was previously canceled ~~canceled~~;
 - 7) a spouse or former spouse when the former spouse/spouse lives with the child;
 - 8) former AFDC and TANF recipients following AFDC and TANF cancellation pursuant to subsection (9) of this Section;
 - 9) persons not receiving TANF, AFDC MANG, or Foster Care Services under Title IV-E upon application to the Department for such services;
 - 10) persons receiving AFDC MANG that previously received AFDC or TANF cash assistance; and
 - 11) persons similarly situated to subsections (a)(1) through (10) above and receiving Title IV-D support services in other states; and
 - 12) persons similarly situated to those described in subsections (a)(1) through (10) above and receiving support services in other countries or subdivisions thereof which have been declared to be foreign reciprocating countries by the Secretary of State under Section 459A of the Social Security Act (42 USC 659A).
- b) Title IV-D is implemented by the Department through its Division of Child Support Enforcement.
- c) The Division of Child Support Enforcement has sole responsibility for:
- 1) identifying and locating the absent parent;
 - 2) establishing the parentage of a child born out of wedlock;
 - 3) establishing support obligations;
 - 4) enforcing and collecting support;
 - 5) receiving and distributing support payments;
 - 6) maintaining accurate records of location and support activities; and
 - 7) advising the local office of circumstances which may affect the family's eligibility for TANF or AFDC MANG (for example, the father is living in the home, or a child no longer lives in the home, etc.).
- d) For Title IV-D children, the Department determines financial ability and establishes the support obligation of the absent parent through order of the court or through administrative process in accordance with Section 160.60.
- e) The Department shall explain to each TANF applicant or recipient his or her responsibility to cooperate with the Department in obtaining support from absent parents and enforcing support obligations and the

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- consequence of noncooperation.
- f) Whenever a family ceases to receive TANF cash assistance, IV-E foster care or medical assistance, the Department shall notify the family that Title IV-D services will be continued unless the family advises the Department that it does not wish to receive Title IV-D services. Additionally, the notice shall advise that no application or application fee is required. Finally, the notice shall also include a description of the Title IV-D services available from the Department and information on the Department's cost recovery (for example, filing fees) and distribution policies. (45 CFR 302.33(a) and (d) and 303.7(d)(4) and (5) (1989))
- g) Whenever a family ceases to receive AFDC MANG assistance:
- 1) if the family previously received TANF cash assistance, IV-D services shall be continued without the filing of a new application as explained in (f) of this Section; or
 - 2) if the family did not previously receive TANF cash assistance, IV-D services shall be continued without the filing of a new application as explained in (f) of this Section.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 17015, effective September 10, 1998, for a maximum of 150 days)

Section 160.20 Assignment of Rights to Support

EMERGENCY

- a) By accepting financial aid under the Public Aid Code, a spouse or a parent or other person having custody of a child shall be deemed to have made assignment to the Department of any and all rights, title, and interest in any support obligations up to the amount of assistance provided. The rights to support assigned to the Department shall constitute an obligation owed to the State by the person who is responsible for providing the support, and shall be collectible under all applicable processes (Section 10-1 of the Illinois Public Aid Code) [305 ILCS 5/10-1] (---Rev-Stat.-1989--ch--23--par--10--1).
- b) Notwithstanding the authority cited in subsection (a) of this Section, the following provisions shall apply:
- 1) For an assignment entered into prior to October 1, 1998, the applicant assigns the Department all rights that have previously accrued and that accrue prior to the family leaving assistance.
 - 2) For an assignment first entered into on or after October 1, 1998:
 - A) With respect to any support collections by Federal income tax refund offsets, the applicant assigns the Department all rights that have previously accrued and that shall accrue prior to the family leaving assistance; and
 - B) With respect to any support collections by other than federal income tax offset:
 - 1) The applicant assigns to the Department any support rights that accrue and will accrue that the family is

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

receiving assistance; and
 ii) The applicant temporarily assigns to the Department all rights to support that accrued prior to the family receiving assistance, such assignment to be in effect only until the family ceases to receive assistance.

c) The amount of support assigned to the Department shall not exceed the cumulative amount of unreimbursed assistance provided to the family during all periods of assistance.

d) For an explanation of assignment of medical support, see 89 Ill. Adm. Code 112.54, Assignment of Medical Support Rights and also 89 Ill. Adm. Code 120.319, Assignment of Rights to Medical Support and Collection of Payments.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 17046, effective September 10, 1998, for a maximum of 150 days)

SUBPART C: ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

Section 160.60 Establishment of Support Obligations

EMERGENCY

a) Definitions

1) "PSS" means any Family Support Specialist performing assigned duties, his supervisory staff and any other person assigned responsibility by the Director of the Department.

2) "Service" or "Served" means notice given by certified mail, return receipt requested, or by any method provided by law for service of summons. (See Sections 2-203 and 2-206 of the Civil Practice Law [735 ILCS 5/2-203 and 2-206].)

3) "Support Statutes" means the following:

- A) Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X];
- B) The Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5];
- C) The Non-Support of Spouse and Children Act [750 ILCS 15];
- D) The Uniform Interstate Family Support Act [750 ILCS 22];
- E) The Illinois Parentage Act of 1984 [750 ILCS 45]; and
- F) Any other statute in another state which provides for child support.

4) "Retroactive support" means support for a period prior to the date a court or administrative support order is entered, including--for--reimbursement--of--cash--assistance--furnished--by--the Department--to--the--custodial--parent--and/or--children--prior--to--the determination--of--support.

5) "Child's needs" means the cost of raising a child as detailed by either:

- A) the custodial parent's statement of the associated costs

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

including, but not limited to, providing a child with: food, shelter, clothing, schooling, recreation, transportation and medical care; or

B) the Department's standard for the costs of raising a child taking into account average actual costs of providing a child with: food, shelter, clothing, schooling, recreation, transportation and medical care in a manner consistent with health and well being as set forth in this Part.

b) Responsible Relative Contact

1) Timing and Purpose of Contact

A) The Department shall contact and interview responsible relatives in Title IV-D cases to establish support obligations, following the IV-D client interview.

B) The purpose of contact and interview shall be to obtain relevant facts including income information (for example, paycheck stubs, income tax returns) necessary to determine the financial ability of such relatives for use in obtaining stipulated, consent and other court orders for support and in entering administrative support orders, pursuant to the support statutes.

2) At least ten working days in advance of the interview, the Department shall notify each responsible relative contacted of his support obligation, by ordinary mail, which notice shall contain the following:

A) the Title IV-D case name and identification number;

B) the names and birthdates of the persons for whom support is sought or other information identifying such persons, such as a prior court number;

C) that the responsible relative has a legal obligation to support the named persons;

D) the date, time, place and purpose of the interview and that the responsible relative may be represented by counsel; and

E) that the responsible relative should bring specified information regarding his income and resources to the interview.

3) The Department shall notify each Title IV-D client of the date, time and place of the responsible relative interview and that the client may attend if he or she chooses.

c) Determination of Financial Ability

1) In cases handled under subsection (d) of this Section, the Family Support Specialist shall determine the amount of child support and enter an administrative support order on the following basis: the Department shall use--the--guidelines--set--forth--below--to determine--the--financial--ability--of--responsible--relatives--to provide--support--in--title--iv--D--cases;

2) The minimum amount of child support to be--established--shall--be determined--as--follows:

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

Number of Children	Percent of Responsible Relative's Net Income
1	20%
2	25%
3	32%
4	40%
5	45%
6 or more	50%

A) "Net Income" is the total of all income from all sources, minus the following deductions:

- i) Federal income tax (properly calculated withholding or estimated payments);
- ii) State income tax (properly calculated withholding or estimated payments);
- iii) Social Security (FICA payments);
- iv) Mandatory retirement contributions required by law or as a condition of employment;
- v) Union dues;
- vi) Dependent and individual health/hospitalization insurance premiums;
- vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;
- viii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;
- ix) Medical expenditures necessary to preserve life or health; and
- x) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts.

B) The deductions in subsections (c)(1)(A)(viii), (ix) and (x) for the period that such payments are due. The Department shall enter administrative or request-the-court-to-enter support orders which contain provisions for an automatic increase in the support obligation upon termination of such payment period.

2) In de novo hearings provided in subsection (d)(5)(G) of this Section and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall determine the minimum amount of child support as follows:

Number of Children	Percent of Responsible Relative's Net Income
1	20%
2	25%
3	32%

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

4	40%
5	45%
6 or more	50%

A) "Net Income" is the total of all income from all sources, minus the following deductions:

- i) Federal income tax (properly calculated withholding or estimated payments);
- ii) State income tax (properly calculated withholding or estimated payments);
- iii) Social Security (FICA payments);
- iv) Mandatory retirement contributions required by law or as a condition of employment;
- v) Union dues;
- vi) Dependent and individual health/hospitalization insurance premiums;
- vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;
- viii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;
- ix) Medical expenditures necessary to preserve life or health; and
- x) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts.

B) The deductions in subsections (c)(2)(A)(viii), (ix) and (x) of this Section shall be allowed only for the period that such payments are due. The Department shall enter administrative support orders that contain provisions for an automatic increase in the support obligation upon termination of such payment period.

C) The above guidelines shall be applied in each case unless the Department finds that application of the guidelines would be inappropriate after considering the best interests of the child in light of evidence including but not limited to one or more of the following relevant factors:

- i) the financial resources and needs of the child;
- ii) the financial resources and needs of the custodial parent;
- iii) the standard of living the child would have enjoyed had the marriage not been dissolved, the separation not occurred or the parties married;
- iv) the physical and emotional condition of the child, and his educational needs; and
- v) the financial resources and needs of the non-custodial parent.

D) Each order requiring support that deviates from the

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

guidelines shall state the amount of support that would have been required under the guidelines. The reason or reasons for the variance from the guidelines shall be included in the order.

- 3) In cases referred for judicial action under subsection (e) of this Section, the Department's legal representative shall ask the court to determine the amount of child support due in accordance with Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505].

- 5) The above guidelines shall be applied in each case unless the Department finds that application of the guidelines would be inappropriate after considering the best interests of the child in light of evidence including but not limited to one or more of the following relevant factors:

- A) the financial resources and needs of the child;
- B) the financial resources and needs of the custodial parent;
- C) the standard of living the child would have enjoyed had the marriage not been dissolved, the separation not occurred or the parties married;
- D) the physical and emotional condition of the child; and
- E) the financial resources and needs of the non-custodial parent.

- 6) Each order requiring support which deviates from the guidelines shall state the amount of support that would have been required under the guidelines, the reason or reasons for the variance from the guidelines shall be included in the order.

- 4) All orders for support shall include a provision for the health care coverage of the child. In all cases where health/hospitalization insurance coverage is not being furnished by the responsible relative to a child to be covered by a support order, the Department shall enter administrative, or request the court to enter support orders requiring the relative to provide such coverage when a child can be added to an existing insurance policy at reasonable cost or indicating what alternative arrangement for health/hospitalization insurance coverage is being provided. However, in Title IV-D non-TANF cases where the client is neither an applicant for nor a recipient of Medical Assistance, the Department shall enter or request such support orders only with the client's consent. Net income shall be reduced by the cost thereof in determining the minimum amount of support to be ordered.

- 5) When proceeding under subsection (d) of this Section, the Department shall, in any event, notwithstanding other provisions of this subsection and regardless of the amount of the responsible relative's net income, order the responsible relative to pay child support of at least \$10.00 per month.

- 6) In cases where cash assistance was provided to the custodial

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

parent and/or children during the period prior to entry of a court or administrative support order, and the net income of the responsible relative cannot be determined because of default or any other reason, the Department shall order or request the court to order the responsible relative to pay retroactive support for the prior period in the amount of the child's portion of the cash assistance grant provided or the amount of the child's needs as defined by subsection (a)(5)(A) or (B) of this Section, whichever is greater.

- 7) The final order in all cases shall state the support level in dollar amounts.

- 8) If there is no net income because of the unemployment of a responsible relative who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving cash assistance in Illinois, the Department, when proceeding under subsection (d) of this Section, shall order, or, when proceeding under subsection (e) of this Section, shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives. In TANF cases, the Department shall order, when proceeding under subsection (d) of this Section, or, when proceeding under subsection (e) of this Section, shall request the court to order, payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the responsible relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].

- 9) The Department shall enter administrative support orders, or request the court to enter support orders, that include a provision requiring the responsible relative to notify the Department, within seven days:

- A) of any new address of the responsible relative;
- B) of the name and address of any new employer or source of income of the responsible relative;
- C) of any change in the responsible relative's Social Security Number;
- D) whether the responsible relative has access to health insurance coverage through the employer or other group coverage; and
- E) if so, the policy name and number and the names of persons covered under the policy.

- 10) The Department shall enter administrative support orders, or request the court to enter support orders, that include a date on which the current support obligation terminates. The termination date shall be no earlier than the date on which the child covered by the order will attain the age of majority or is otherwise emancipated. The order for support shall state that the

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

termination date does not apply to any arrearage that may remain unpaid on that date. The provision of a termination date in the order shall not prevent the order from being modified.

11) The Department shall enter administrative support orders, or request the court to enter support orders, that include provisions for retroactive support when appropriate.

A) In cases handled under subsection (d) of this Section, the Department shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock).

B) In de novo hearings provided for in subsection (d)(5)(G) of this Section and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock), unless, in cases where the child was born out of wedlock, the hearing officer, after having examined the factors set forth in Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14] and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505] decides that another date is more appropriate.

C) In cases referred for judicial action under subsection (e) of this Section, the Department's legal representative shall ask the court to determine the date retroactive support is to commence in accord with Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X], Sections 510 and 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/510 and 505], and Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14].

d) Administrative process

1) Use of Administrative Process

A) Unless otherwise directed by the Department, the FSS Department--FSS's shall establish support obligations of responsible relatives through the administrative process set forth in this subsection (d), in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:

- i) presumed paternity as set forth in Section 5 of the Illinois Parentage Act of 1984 [750 ILCS 45/5] and support is sought from one or both parents;
- ii) alleged paternity and support is sought from the mother;

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- iii) an administrative paternity order entered under Section 160.61 and support is sought from the man determined to be the child's father, or from the mother, or both;
- iv) an establishment of parentage in accordance with Section 6 of the Illinois Parentage Act of 1984 [750 ILCS 45/6]; and
- v) an establishment of parentage under the laws of another state, and support is sought from the child's father, or from the mother, or both.

B) In addition to those items specified in subsection (b)(2) of this Section, the notice of support obligation shall inform the responsible relative of the following:

- i) that the responsible relative may be required to pay retroactive support as well as current support;--and that--he--may--be--liable--for--reimbursement--of--public assistance--furnished--the--named--persons--prior--to determination--of--the--ability--to--support; and
- ii) that in its initial determination of child support under subsection (c), the Department will only consider factors listed in subsections (c)(1)(A)(i) through (c)(1)(A)(x) of this Section; and
- iii) that the Department will enter an administrative support order based only on those factors listed in subsections (c)(1)(A)(i) through (c)(1)(A)(x) of this Section; and
- iv) that in order for the Department to consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14], and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505], either the responsible relative or the client must request a de novo hearing within 30 days after mailing or delivery of the administrative support order; and
- v) that both the client and the responsible relative have a right to request a de novo hearing within 30 days after the mailing or delivery of an administrative support order at which time a Department hearing officer may consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14], and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505]; and
- vi) that unless the client and/or the responsible relative requests a de novo hearing within 30 days after the order's mailing or delivery, the administrative support order will become a final enforceable order of

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

the Department; and

vii) that upon failure of the responsible relative to appear for the interview or to provide necessary information to determine net income, an administrative support order may be entered by default or the Department may seek court determination of financial ability based upon the guidelines.

- 2) The FSS shall determine the ability of each responsible relative to provide support in accordance with subsection (c) of this Section when such relative appears in response to the notice of support obligation and provides necessary information to determine net income. An administrative support order shall be entered which shall incorporate the resulting support amount therein. The FSS shall also determine (and incorporate in the administrative support order) the amount of retroactive support the responsible relative shall be required to pay by applying the relative's current net income (unless the relative provides necessary information to determine net income for the prior period) to the support guidelines in accordance with subsection (c) of this Section. In cases where cash assistance was provided to the custodial parent and/or children during the period prior to entry of the administrative support order, and the net income of the responsible relative cannot be determined because of default or any other reason, the FSS shall order the responsible relative to pay retroactive support for the prior period in the amount of the cash assistance provided, as specified in subsection (e)(9) of this Section, in administrative process cases, the period prior to the entry of the administrative support order shall commence with the parties' separation, unless the child was born out of wedlock and paternity was determined under Section 10-61 or under Section 12 of the Vital Records Act 410-535/12, in which case such period shall commence with the child's birth.

3) Failure to Appear

- A) In instances in which the responsible relative fails to appear in response to the notice of support obligation or fails to provide necessary information to determine net income, the FSS shall enter an administrative support order by default, except as provided in subsection (d)(3)(D) of this Section. The terms of the order shall be based upon the needs of the child for whom support is sought, as defined by subsection (a)(5) of this Section furnished by affidavit of the IV-D client or the child's portion of the cash assistance grant, whichever is greater. No default order shall be entered when a responsible relative fails to appear at the interview unless the relative shall have been served as provided by law with a notice of support obligation.

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- B) The FSS may issue a subpoena to a responsible relative who fails to appear for interview, or who appears and furnishes income information, when the FSS has information from the Title IV-D client, the relative's employer or any other reliable source indicating that:
 - i) financial ability, as determined from the guidelines contained in subsection (c) of this Section, exceeds the amount indicated in case of default, as indicated in subsection (d)(3)(A) of this Section; or
 - ii) income exceeds that reported by the relative.
 - C) The FSS will not issue a subpoena under subsection (d)(3)(B) of this Section where the information from the Title IV-D client, the responsible relative's employer or other source concerning the relative's financial ability is verified through documentation such as payroll records, paycheck stubs or income tax returns.
 - D) In instances in which the relative fails or refuses to accept or fully respond to a Department subpoena issued to him pursuant to subsection (d)(3)(B) of this Section, the FSS may enter a temporary administrative support order by default, in accordance with subsection (d)(3)(A) of this Section, and may then, after investigation and determination of the responsible relative's financial ability to support, utilizing existing State and Federal sources (for example, Illinois Department of Employment Security), client statements, employer statements, or the use of the Department's subpoena powers, enter a support order in accord with subsection (c)(1) of this Section seek establishment of support obligations through the judicial process pursuant to subsection (e) of this Section.
- 4) The Department shall register, enforce or modify an order entered by a court or administrative body of another state, and make determinations of controlling order where appropriate, in accordance with the provisions of the Uniform Interstate Family Support Act [750 ILCS 22]. Registration of Order of Another State
- A) The FSS shall register a support order entered by a court or administrative body of any other state referred for establishment and enforcement of an Illinois support obligation, on behalf of persons receiving Title IV-B services from such state, upon receipt of the following:
 - i) a request that another state's support order be administratively registered to effect interstate income withholding;
 - ii) the referring state's IV-D case name and identification number;
 - iii) the names and birthdates of the persons for whom support is ordered;
 - iv) a certified copy of the support order with all

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

modifications:

- v) a--certified-copy-of-an-order-for-withholding--if-any--
still-in-effect?
- vii) a--certified-copy-of-the-payment-record--if-there-is
no-payment--record--an-affidavit--attesting--to--the
amount--of--arrearage--which--has--accrued--under--the
support--order?
- viii) the--name--address--and--social-security-number--of--the
responsible-relative--and
- viii) the--name--and--address--of--the--responsible--relative's
employer--or--any--other--source--of--income--of--the--relative
from--which--withholding--may--be--effected--if--known?
- B) When--registered--such--order--shall--become--an-administrative
support--order--of--the--Department--the--PSS--shall--enter--a
separate--administrative--support--order--of--the--Department
which--shall--contain--the--terms--of--the--registered--order.
- 5) An administrative support order shall include the following:
- A) the Title IV-D case name and identification number;
- B) the names and birthdates of the persons for whom support is
ordered;
- C) the beginning date, amount and frequency of support;
- D) the total retroactive support obligation and the beginning
date, amount (which shall not be less than 20 percent of the
current support amount) and frequency of payments to be made
until the retroactive support obligation is paid in full;
- E) the amount of any arrearage that has accrued under a prior
support order and the beginning date, amount (which shall
not be less than 20 percent of the support order) and
frequency of payments to be made until the arrearage is paid
in full;
- F) the manner in which support payments are to be made; and
- G) a statement informing the client and the responsible
relative that he has 30 days from the date of mailing of the
administrative support order in which to petition the
Department for a release from or modification of the order
and receive a hearing in accordance with 89 Ill. Adm. Code
104.102 and subsection (c)(2) of this Section, except that
for orders entered as a result of a decision after a de novo
hearing, the statement shall inform the client and the
responsible relative that the order is a final
administrative decision of the Department and that review is
available only in accordance with provisions of the
Administrative Review Law (735 ILCS 5/Art. III); and
- H) except where the order was entered as a result of a decision
after a de novo hearing, a statement that the order was
based upon the factors listed in subsection (c)(1)(A) of
this Section and that in order to have the Department
consider other factors listed in subsection (c)(2)(C) of

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- this Section. Section 14(b) of the Illinois Parentage Act
of 1984 [750 ILCS 45/14] and Section 505 of the Illinois
Marriage and Dissolution of Marriage Act [750 ILCS 5/505],
either the responsible relative or the client must request a
de novo hearing within 30 days after mailing or delivery of
the administrative support order.
- 6) Every administrative support order entered on or after July 1,
1997, shall include income withholding provisions based upon and
containing the same information as prescribed in Section 160.75.
The Department PSS shall also prepare and serve income
withholding notices after entry of an administrative support
order and effect income withholding in the same manner as
prescribed in Section 160.75.
- 7) The Department PSS shall provide to each client and each
responsible relative a copy of each administrative support order
entered, no later than 14 days after entry of such order, by:
- A) delivery at the conclusion of an interview where financial
ability to support was determined. An acknowledgment
acknowledgement of receipt signed by the client or relative
or an affidavit of delivery signed by the Department's
representative PSS shall be sufficient for purposes of
notice to that person.
- B) regular certified mail to the party not receiving personal
delivery where the relative fails or refuses to accept
delivery, where either party does not attend the interview,
or the orders are entered by default.
- C) service in the case of registration of the support orders of
another state. A copy of such state's orders shall be
served with those of the Department.
- 8) In any case where the administrative support process has been
initiated for the custodial parent and the non-marital child, and
the custodial parent and the non-marital child move outside the
original county, the administrative support case shall remain in
the original county unless a transfer to the other county in
which the custodial parent and the non-marital child reside is
requested by either party or the Department and the hearing
officer assigned to the original county finds that a change of
venue would be equitable and not unduly hamper the administrative
support process. The PSS shall provide to each Title IV-D client
a copy of each administrative support order within 14 days after
entry of such order.
- e) Judicial Process
- 1) The Department PSS's shall refer Title IV-D cases for court
action to establish support obligations of responsible relatives,
pursuant to the support statutes (see subsection (a)(3) of this
Section) in matters requiring the determination of parentage
(except when paternity is to be determined administratively under
Section 160.61), in those wherein the court has acquired

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

jurisdiction previously and in instances described in subsection (d)(3)(D) of this Section, and as otherwise determined by the Department.

- 2) The Department ~~PSS~~ shall prepare the transmit pleadings and obtain or affix appropriate signature thereto which pleadings shall include, but not be limited to, petitions to:

- A) intervene;
- B) modify;
- C) change payment path;
- D) establish an order for support;
- E) establish retroactive support;
- F) establish past-due support;
- G) establish parentage;
- H) obtain a rule to show cause; and
- I) enforce judicial and administrative support orders;
- J) combinations of the above.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 17046, effective September 10, 1998, for a maximum of 150 days)

Section 160.61 Uncontested and Contested Administrative Paternity and Support Establishment

EMERGENCY

a) Definitions

- 1) "Combined paternity index" means a statistic, stated as an odds ratio in a report of genetic testing results, giving the likelihood that the man having undergone the testing is the father of the child relative to the chance that the father is another (unrelated random) man from the same racial background.

"Genetic testing" means deoxyribonucleic acid (DNA) tests.

- 3) "Service" or "Served" means notice given by personal service, certified mail, return receipt requested, or by any method provided by law for service of a summons. (See Sections 2-203 and 2-206 of the Civil Practice Law [735 ILCS 5/2-203 and 2-206].)

- 4) "Non-marital child", as used in this Section and Section 160.62, means a child born out of wedlock for whom paternity has not been established.

- 5) "Alleged father", as used in this Section and Section 160.62, means a man alleged to be the father of a non-marital child.

- 6) "Presumed father" shall have the meaning ascribed to that term in the Illinois Parentage Act of 1984 [750 ILCS 45].

b) Uncontested Administrative Paternity Process

- 1) Except as otherwise determined, the Department ~~PSS's~~ shall establish a man's paternity of a child through the administrative process set forth in this Section, in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

involving:

- A) a non-marital child and support is sought from the alleged father;
- B) a non-marital child who is in the physical custody of the alleged father or a caretaker relative other than the child's mother, and support is sought from the alleged father or from the mother, or both; or
- C) presumed paternity as set forth in Section 5(a)(1) and (2) of the Illinois Parentage Act of 1984 [750 ILCS 45/5(a)(1) and (2)] in which a man other than the presumed father has been alleged to be the child's father, and notice has been provided to the alleged and presumed fathers as set forth in this Section.

2) Contact with Responsible Relatives

- A) Following the IV-D client interview, the Department shall contact and interview:
 - i) alleged fathers to establish paternity and support obligations; and
 - ii) mothers to establish an alleged father's paternity of a child (where the alleged father or a caretaker relative other than the mother has physical custody of the child) and to establish the support obligation of the alleged father, the mother, or both.

- B) The purpose of contact and interview shall be to obtain relevant facts including information concerning the child's paternity and responsible relative income information (for example, paycheck stubs, income tax returns) necessary to establish the child's paternity and to determine the responsible relative's financial ability for use in establishing child support obligations.

- 3) At least ten working days in advance of the interview, the Department shall serve upon or provide to the alleged father from whom child support is sought, by ordinary mail, a notice of alleged paternity and support obligation by ordinary mail to the alleged father from whom child support is sought, which notice shall contain the following:
 - A) the Title IV-D case name and identification number;
 - B) the name and birthdate of the non-marital child;
 - C) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child;
 - D) the date, time, place and purpose of the interview and that the alleged father may be represented by counsel;
 - E) that the alleged father should bring specified information regarding his income and resources to the interview;
 - F) that upon failure of the alleged father to appear for the interview, administrative paternity and support orders may

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

be entered against him by default; and

G) that the alleged father may be ordered to pay current support, retroactive support, and to provide health insurance coverage for the child.

4) At least ten working days in advance of the interview, the Department shall serve upon or provide to the child's mother, by ordinary mail, a notice of alleged paternity and support obligation to the child's mother-by-ordinary-mail, when a man has been alleged to be the father of the child, the alleged father has physical custody of the child, and support is sought from the mother. The notice shall contain the following:

- A) the Title IV-D case name and identification number;
- B) the name and birthdate of the non-marital child;
- C) that the mother has a legal obligation to support the child;
- D) the date, time, place and purpose of the interview and that the mother may be represented by counsel;
- E) that the mother should bring specified information regarding her income and resources to the interview;
- F) that the mother may be ordered to pay current support, retroactive support, and to provide health insurance coverage for the child;
- G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and
- H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:
 - i) an administrative support order may be entered against the mother by default or the Department may seek court determination of financial ability based upon the guidelines; and
 - ii) the Department may enter an order finding the alleged father to be the father of the child.

5) At least ten working days in advance of the interview, the Department shall serve upon or provide to the child's mother, by ordinary mail, a notice of alleged paternity and support obligation to the child's mother-by-ordinary-mail, when a man has been alleged to be the father of a child, an adult other than a parent of the child has physical custody of the child, and support is sought from the mother and the alleged father. The notice shall contain the following:

- A) the Title IV-D case name and identification number;
- B) the name and birthdate of the non-marital child;
- C) that the mother has a legal obligation to support the child;
- D) the date, time, place and purpose of the interview and that the mother may be represented by counsel;
- E) that the mother should bring specified information regarding her income and resources to the interview;

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- F) that the mother may be ordered to pay current support, retroactive support, and to provide health insurance coverage for the child;
 - G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and
 - H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:
 - i) an administrative support order may be entered against the mother by default or the Department may seek an administrative or court determination of financial ability based upon the guidelines; and
 - ii) the Department may enter an order finding the alleged father to be the father of the child on the basis of genetic testing.
- 6) Where the man alleged to be the father of a child is different from a man presumed to be the father under Section 5(a)(1) and (2) of the Illinois Parentage Act of 1984 [750 ILCS 45/5(a)(1) and (2)], the Department §99 shall send a notice to the presumed father which shall contain the following:
- A) the Title IV-D case name and identification number;
 - B) the child's name and birthdate;
 - C) the name of the child's mother;
 - D) that the man to whom the notice is directed has been identified as the child's presumed father;
 - E) that another man has been alleged to be the child's father, and the name of that alleged father;
 - F) that the Department has scheduled an interview with the alleged father for the purpose of determining the child's paternity, and the date, time and place of the interview (the date of the interview shall not be less than ten working days after the date of the notice to the presumed father);
 - G) that if the presumed father fails to appear at the interview to assert his rights as the presumed father, the Department may enter an administrative order finding the alleged father to be the child's father on the basis of genetic testing, or if the alleged father and the child's mother voluntarily sign an acknowledgment that the alleged father is the father of the child; and
 - H) that counsel may accompany the presumed father to the interview.
- 7) The Department shall notify each Title IV-D client of the date, time and place of the alleged father interview and that the client may attend if the client chooses.
- 8) In cases involving a non-marital child:
- A) The Department §99 shall provide the alleged father and the

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

child's mother an opportunity to establish paternity by voluntarily signing an acknowledgment of paternity (and, in a case in which there is also a presumed father, an opportunity for the mother and the presumed father to sign a denial of paternity), after being provided with information concerning the implications of signing the acknowledgment (and denial), including parental rights and responsibilities of child support, retroactive support, health insurance coverage, custody, and visitation, the right to obtain and agree to be bound by the results of genetic testing, and the right to deny paternity and obtain a contested hearing.

B) The Department FGS shall enter and, within 14 days after entry, serve or mail the parties a copy of an administrative paternity order finding the alleged father to be the father of the child in the following circumstances. An acknowledgment of receipt signed by the client or relative or an affidavit of delivery signed by the Department's representative shall be sufficient for purposes of notice to that person. The Department shall enter the order where:

- i) the alleged father and the child's mother (and any presumed father) have voluntarily signed an agreement to be bound by the results of genetic testing, and the results of such testing show that the alleged father is not excluded and that the combined paternity index is at least 500 to 1;
- ii) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him in a case in which support is sought from the alleged father, or fails to appear for scheduled genetic testing after signing an agreement to be bound by the results of genetic testing;
- iii) the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where the alleged father has physical custody of the child;
- iv) the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where an adult other than a parent of the child has physical custody of the child, the alleged father has voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least 500 to 1;
- v) the alleged father fails to appear for interview in response to the Department's notice of alleged

for the purpose of the investigation.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
84

for the purpose of the investigation.

the alleged father fails to appear for interview in

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

paternity and support obligation served upon him (or fails to appear for genetic testing after agreeing to be bound by the results of genetic testing) in a case where an adult other than a parent of the child has physical custody of the child;

vi) the presumed father fails to appear in response to the Department's notice to presumed father served upon him, and the alleged father and the child's mother have voluntarily signed an acknowledgment that the alleged father is the father of the child after being provided with information concerning the legal implications of signing such an acknowledgment;

vii) the presumed father fails to appear in response to the Department's notice to presumed father served upon him, the child's mother, and the alleged father have voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least 500 to 1; or

viii) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him, and the presumed father fails to appear in response to the Department's notice to presumed father served upon the presumed father.

C) The Department FSB shall make a determination that the alleged father is not the father of the child where the results of genetic testing exclude the alleged father.

9) An agreement to be bound by the results of genetic testing under subsection (b)(8)(B) of this Section shall not be valid where the mother or alleged father is a minor, unless the parent or guardian of the minor mother or minor alleged father also signs the agreement to be bound by the results of genetic testing, except where the mother or alleged father is either emancipated or head of his or her own household with the child for whom paternity is being determined.

10) A party aggrieved by entry of an an man--against--whom--a--default administrative paternity order has-been--entered, pursuant to subsection (b)(8) (b)(8)(B)(iv)--(b)(8)(B)(v)--or--(b)(8)(B)(vi)--- of this Section, may have the order vacated if, within 30 days after being served with the order, the party he appears in person at the office to which he or she was given notice to appear for an interview pursuant to subsection (b)(3) of this Section and files a written request for relief from the order. The Department PSS shall then proceed with the establishment of paternity under this Section. A party man may obtain relief under this subsection only once in any proceeding to establish

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

paternity.

11) The child's mother or the alleged father may void the presumption of paternity created by voluntarily signing an acknowledgment of paternity under Section 12 of the Vital Records Act [410 ILCS 535/12] by signing a rescission of paternity and filing it with the Department by the earlier of:

- A) 60 days after the date the acknowledgment of paternity was signed; or
- B) the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order, in which the mother or the alleged father is a party.

12) If the mother or alleged father signs a rescission of paternity, the Department FSS shall process the case under this subsection (b).

c) Contested Paternity Hearing Officers and--Support--Establishment--and Continued-Eligibility-Demonstration-Program

1) The--Department--shall--conduct--a--demonstration--program--for administrative-paternity-and-support-establishment-and--continued eligibility-for-custodial-parents-of--a-non-marital-child-who-are applicants--for--or--recipients-of-cash-assistance-under-Articles IV-VI--and-VI-of-the-Illinois-Public-Aid-Code

2) applicants--and--recipients--in-Meane-County-randomly-assigned-to one-of-the-three-following-groups:

- A) an-experimental-treatment-group-which-will-be--subject--to the-provisions-of-Section-160-62;
- B) a--non-experimental-treatment--group--which--will--also-be subject-to-the-provisions-of-Section-160-62; and
- C) a-control-group-which-will-be-subject-to-the-provisions--of Section-160-30.

3) Applicants--and--recipients--in--all--counties--other--than-Meane County--shall--be--assigned--to--the--non-experimental-treatment-group and-subject--to--the-provisions--of-Section-160-62;

4) in-demonstration-program-cases-in-which-paternity-is-uneontested the-Department--shall--establish--paternity--in--accordance--with subsection-(b)-of-this-Section;

1) Except as otherwise directed by the Department or provided for in this Part, Demonstration-program cases in which paternity is contested shall be referred to Department hearing officers to administratively determine paternity. The Department shall provide the alleged father (and any presumed father) with notice and opportunity to contest paternity at a hearing to determine at an administrative hearing--as-well-as-inform-the-alleged-father (and--any--presumed-father)--of--his--right-to-demand-a-judicial determination--of the existence of the father and child relationship. The notice and any administrative hearing shall be governed by 89 Ill. Adm. Code Sections 104.200 through 104.295.

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

Any administrative support order shall be established in accordance with Section 160.60.

2) Notice shall be given to served-on all parties in the manner provided for service of a notice of alleged paternity and support obligation under subsections (a) and (b) of this Section or, where necessary, by publication in cases in which the whereabouts of a party or parties are unknown after diligent location efforts by the Department. Where service is by publication, the notice shall be published at least once in each week for three consecutive weeks in a newspaper published in the county in which the administrative proceeding is pending. If there is no newspaper published in that county, then the publication shall be in a newspaper published in an adjoining Illinois county having a circulation in the county in which the administrative proceeding is pending. In addition, where service is by publication, the date of the interview stated in the notice shall not be less than 30 days after first publication of the notice.

3) The Department shall enter default paternity determinations in contested administrative demonstration-program cases as provided for under subsection (b) of this Section. However, where notice of the administrative proceedings was served on a party by publication under subsection (c)(6) of this Section, a notice of default paternity determination shall be published in the same manner. The notice of default paternity determination shall contain the information required in an administrative paternity order under subsection (d) of this Section, except that where notice was served by publication the notice of default paternity determination shall not include the mother's and father's Social Security numbers, and shall include a statement of the following in lieu of a statement that the order is a final and binding administrative decision:

- A) that the man determined to be the child's father may bring a petition in the circuit court for relief from the administrative paternity determination on the same grounds provided for relief from judicial judgments under Section 2-1401 of the Code of Civil Procedure [735 ILCS 5/2-1401];
 - B) that such a petition must be filed no later than two years after the notice of default paternity determination was published; and
 - C) that allegations made in such a petition without reasonable cause that are found to be untrue by the circuit court may subject the petitioner or his attorney, or both, to the payment of reasonable costs and attorney's fees incurred by the Department in defending against the petition.
- 6) In those cases in which the alleged father or presumed father has requested that the court determine the existence of a father-child relationship--the--Department--shall--refer--the--case--for judicial-action-to-establish-paternity-and-support-in--accordance

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

with subsection (i) of this Section:

4) 9 The Department shall not proceed to establish paternity administratively under subsection (c) of this Section the demonstration program in those cases wherein the court has acquired jurisdiction previously 7 ~~the alleged or presumed father has requested that the court determine the existence of a father and child relationship~~ or the custodial parent claims good cause for failing to cooperate in the establishment of paternity and is found to be exempt from cooperating as set forth in Section 160.35.

5) 10 In any case where the administrative paternity process has been initiated for the custodial parent and the non-marital child, and the custodial parent and the non-marital child move outside the original demonstration program county, the paternity determination case shall remain in the original demonstration county of venue unless a transfer to another the county of proper venue in which the non-custodial parent and the non-marital child reside is requested by either party and the hearing officer assigned to the original county finds that a change of venue would be equitable and not unduly hamper the administrative paternity process the custodial parent, in writing, within ten days after the move outside the original demonstration county.

d) An administrative paternity order, whether entered under subsection (b) or subsection (c) of this Section, shall include the following:

- 1) the title IV-D case name and identification number;
- 2) the name and birthdate of the child for whom paternity is determined;
- 3) the alleged father's name and his Social Security number, if known;
- 4) the mother's name and her Social Security number, if known;
- 5) a finding that the alleged father is the father of the child, and a statement indicating how paternity was determined (for example, agreement to be bound by the results of genetic testing, default, contested hearing);
- 6) except in cases in which paternity is administratively determined under subsection (b)(8)(B)(ii), (b)(8)(B)(v) or (b)(8)(B)(viii) of this Section, or in a contested hearing under subsection (c) of this Section, a statement informing the client and responsible relative that each he has 30 days from the date of mailing (or delivery at the interview) of the administrative paternity order to petition the Department for release from the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.105;
- 7) in cases in which paternity is administratively determined by default under subsection (b)(8)(B)(ii), (b)(8)(B)(v) or (b)(8)(B)(viii) of this Section, a statement informing the client and responsible relative of the relief available pursuant to subsection (b)(10) of this Section; and
- 8) in cases in which paternity is administratively determined in a

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

contested hearing under subsection (c) of this Section, a statement informing the responsible relative that the order is a final and binding administrative decision, and whether the order is reviewable only under the provisions of the Administrative Review Law [735 ILCS 5/Art. III].

e) Petitions For Release - Extraordinary Remedies

1) Notwithstanding the statements required by subsection (d) of this Section, more than 30 days after entry of an administrative paternity order under subsection (b) or (c) of this Section, a party aggrieved by entry of an administrative paternity order may petition the Department for release from the order.

2) Petitions under this subsection (e) must:

- A) Cite a meritorious defense to entry of the order.
- B) Cite the exercise of due diligence in presenting that defense to the Department.
- C) Be filed no later than two years following the entry of the administrative paternity order, except that times listed below shall be excluded in computing the two years:
 - i) time during which the person seeking relief is under legal disability;
 - ii) time during which the person seeking relief is under duress; and
 - iii) time during which the grounds for relief is concealed from the person seeking relief.

D) Be supported by affidavit or other appropriate showing as to matters not supported by the record.

3) Notice of the filing of the petition must be given and a copy of the petition must be served on the other parent by certified mail, return receipt requested or by any manner provided by law for service of process. The filing of a petition under this subsection (e) does not affect the validity of the administrative paternity order.

f) When the paternity of a child has been administratively established under subsection (b) or (c) of this Section, the Department shall enter an administrative support order under the process set forth in Section 160.60.

g) In cases in which a final administrative determination of paternity is pending, but there is clear and convincing evidence of paternity based upon the results of genetic testing and upon motion of a party, the Department shall enter a temporary order for support in the manner provided for in Section 160.60.

h) The Department shall notify the Department of Public Health of final administrative paternity determinations, voluntary acknowledgments of paternity, denials of paternity and rescissions of paternity.

i) In cases in which a child's certificate of birth is on file in a state other than Illinois and any of the circumstances stated below occur, the Department shall forward to the other state a copy of the final administrative determination of paternity or the voluntary

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

acknowledgment of paternity (and the presumed father's denial of paternity, if applicable) or the rescission of paternity:

- 1) the Department enters a final administrative determination of paternity; or
- 2) the paternity of a child is established by voluntary acknowledgment under Section 12 of the Vital Records Act [410 ILCS 535/12]; or
- 3) the alleged father or the child's mother rescinds a voluntary acknowledgment of paternity under Section 12 of the Vital Records Act [410 ILCS 535/12].

~~1) Judicial Process.~~ The Department shall refer Title IV-D cases for judicial action to establish a child's paternity and a responsible relative's support obligation pursuant to the Illinois Parentage Act of 1984 [750 ILCS 45], the Revised Uniform Reciprocal Enforcement of Support Act [750 ILCS 20] or the Uniform Interstate Family Support Act [750 ILCS 22], as appropriate, in matters:

- 1) involving contested paternity, except where the case is appropriate for referral to a Department hearing officer under ~~subsection (c) of this Section;~~
- 2) where the non-marital child was not conceived in Illinois and the alleged father resides in a state other than Illinois;
- 3) where the court has acquired jurisdiction previously; or
- 4) where the results of genetic testing show that the alleged father is not excluded and the combined paternity index is less than 500 to 1, except where the case is appropriate for referral to a Department hearing officer under subsection (c) of this Section, or
- 5) ~~where the alleged or presumed father has requested that the court determine the existence of a father and child relationship in a contested case under subsection (c) of this Section, but only after genetic tests have been ordered and the results have been received in accordance with Section 104-213.~~

(Source: Amended by emergency rulemaking at 22 Ill. Reg. ~~17044~~, effective September 10, 1998, for a maximum of 150 days)

Section 160.65 Modification of Support Obligations

EMERGENCY

a) Definitions

- 1) "Order for support" means any court or administrative order establishing the level of child support due to a child from the responsible relative.
- 2) "Income Withholding Notice" means the notice served on a payor, pursuant to entry of a court or administrative order for support, that directs the payor to withhold a part of a responsible relative's income for payment of child support.
- 3) "Assignment of support" has the meaning set forth in Section

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

160.5.

- 4) "Assignment of medical support" has the meaning set forth in Section 160.5.
- 5) "Health insurance" means health insurance or health plan coverage for the dependent child for whom support is sought.
- 6) "Review" means the FSS comparison of the responsible relative's current financial ability to the existing order for support, as described in subsection (f) below.
- 7) "Quantitative Standard for Review" means the current financial ability of the responsible relative, as determined through modification review, is at least 20 percent above or below the existing order for support and the change is an amount equal to at least \$10 a month.

b) Review and Modification of Support Orders

- 1) The Department, beginning October 13, 1993, shall review child support orders in Title IV-D cases at 36 month intervals after establishment, modification or the last review, whichever was the last to occur, unless:

- A) In a case in which there is an assignment of support or an assignment of medical support, the Department determines, in accordance with subsection (b)(3) below, that a review would not be in the best interests of the child and neither parent has requested a review; or
- B) In a case in which there is no assignment of support or an assignment of medical support, neither parent has requested a review; or
- C) In a case in which there is an assignment of medical support but no assignment of support, the order for support requires health insurance for the child covered by the order and neither parent has requested a review, or
- B) ~~The order is an administrative order for support entered by the Department pursuant to registration of another State's order under Section 160-60(d)(4).~~

2) Prior to the expiration of the 36 month period:

- A) The Department, in a case in which there is an assignment of support or an assignment of medical support, shall review the order if:
 - i) an order for withholding has been served on the responsible relative's payor, and payments have been received by the Department within the 90 days prior to selection for review; and
 - ii) the order for support does not require the responsible relative to provide health insurance for the child covered by the order; and
 - iii) the Department has not determined that a review would not be in the best interests of the child.
- B) The Department, in a case in which there is no assignment of support or assignment of medical support, shall review

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

orders as set forth in subsection (b)(2)(A), but only with the consent of the client.

C) The Department may review any order for support, unless it has determined that a review would not be in the best interests of the child, whenever a change in financial circumstances of the responsible relative becomes known through representations of the relative or of the client or from independent sources, and such change would materially affect ability to support.

3) The Department shall determine that a review of an order for support would not be in the best interests of the child if there has been a finding of good cause, and it has been determined that support enforcement may not proceed without risk of harm to the child or caretaker relative.

c) Notice of the Right to Request a Review

1) In each Title IV-D case, the Department shall provide notice not less than once every three years to each parent subject to an order for support in the case. The notice may be included in the order and shall inform the parent of the right to request a review of the order, where to request a review and the information which must accompany a request.

2) The Department shall use the broadcast or print media at least twice a calendar year to publicize the right to request a review as part of the child support enforcement program, and include notice of this right as part of the information on IV-D services contained in its brochures, pamphlets and other printed materials describing the program.

d) Notice of Review

1) The Department shall notify the client and responsible relative that a review will be conducted at least 30 days before commencement of the review.

2) The notice of review shall:

A) Require completion of a form financial affidavit and return of the affidavit to the Department within 15 calendar days after the date the client or relative received the notice; and

B) State that if, as a result of the review, action is taken to modify the order for support, the Department will order or request the court to order the responsible relative to provide health insurance. However, in cases where the client is not receiving medical assistance, the notice shall state that health insurance may be ordered or requested only with the client's consent, as provided in Section 160.60(c)(7).

e) Information Gathering and Employer Contact

1) The Department shall capture all available responsible relative financial information from existing federal and State sources (for example e-g., Illinois Department of Employment Security)

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

through electronic data searches on all IV-D cases.

2) If the responsible relative fails to return a completed financial affidavit within 15 calendar days after the relative receives the notice of review, the Department shall send a notice to the responsible relative's employer, in accordance with Section 10-3.1 of the Illinois Public Aid Code [305 ILCS 5/10-3.1]. The notice shall:

A) require the disclosure of responsible relative employment information, including but not limited to:

- i) the period of employment;
- ii) the frequency of wage payments;
- iii) gross wages, net pay and all deductions taken in reaching net pay;
- iv) the number of dependent exemptions claimed by the responsible relative; and
- v) health insurance coverage available to the responsible relative through the employer.

B) require employer compliance within 15 calendar days after the employer's receipt of the notice.

3) If the responsible relative fails to return a completed financial affidavit within 15 calendar days after receipt of the notice of review, and the relative's employer is unknown, the Department shall use available means for obtaining the relative's financial information, e.g., service of a subpoena upon the responsible relative.

f) Review of the Order for Support

1) The FSS shall review any financial information concerning the responsible relative. Where the responsible relative's information is not verified through an employer, wage stubs or income tax returns, the FSS shall seek other verification, e.g., subpoena of the responsible relative's income tax return.

2) The FSS shall determine the responsible relative's current financial ability in accordance with the guidelines contained in Section 160.60(c).

3) The FSS shall compare the responsible relative's current financial ability to the amount of the existing order for support and determine if the Quantitative Standard for Review has been met.

4) The FSS shall determine if health insurance is being provided for the child under the order for support or whether the child's health care needs are being met through other means. In no event shall the FSS consider a child's eligibility for, or receipt of, medical assistance to meet the need to provide for the child's health care needs.

g) Notice of Review Results

The Department shall inform the client and responsible relative of the results of the review and provide a copy of the FSS calculation comparing the responsible relative's current financial ability to the

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

amount of the existing order within 14 days after the review results are determined. The client and responsible relative will be advised whether or not the Department will take action to modify the existing order for support and of the right to contest the determination.

1) When the review indicates the Quantitative Standard for Review has not been met, the client and responsible relative, in both judicial and administrative cases, are advised as follows:

- A) The Department will not take action to modify the order for support; or
- B) The Department will only take action to modify the order to require health insurance for the child covered by the order.
- C) Either parent may request a redetermination within 30 calendar days after the date of the notice by:
- i) signing and returning the request for a redetermination to the Department; and
 - ii) providing financial documentation or information concerning the child's health care needs not furnished previously, which will substantiate the request.
- 2) When the review indicates the Quantitative Standard for Review has been met, the client and responsible relative will be advised that:

A) The Department will take action to modify the existing order for support in accordance with the review results.

B) In cases involving the judicial process, each parent will be informed 30 calendar days in advance of the hearing date and will have the opportunity to contest the review results at that time.

C) In cases where an administrative order for support is entered in accordance with subsection (h) below:

i) ~~The client will be advised of the right to request a redetermination within 30 calendar days after the date of mailing of the notice and administrative order for support by signing and returning the request for redetermination to the Department and providing financial documentation or information concerning the child's health care needs not furnished previously which will substantiate the request.~~

1) ~~The client and responsible relative will be advised that he or she has until 30 calendar days after the date of mailing of the administrative order for support in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102. The client will be further advised that he or she may provide financial documentation or information concerning the child's health care needs not furnished previously that will substantiate the requested relief.~~

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

1) ~~Where both the client requests a redetermination and the responsible relative requests a hearing, the two requests shall be merged and shall be disposed of simultaneously by the hearing proceeding. The parties shall be advised further of the right to present evidence at the hearing, including the client's right to provide financial documentation or information concerning the child's health care needs not furnished previously that will substantiate the requested relief.~~

ii) ~~Where the responsible relative requests a hearing and the client does not request a redetermination, the client shall again be advised further of the right to present evidence at the hearing.~~

iv) ~~Where the client requests a hearing redetermination and the responsible relative does not, the request a hearing any change shall result in or have the effect of the issuance of a new administrative order for support. The responsible relative shall again be advised further of the right to request a hearing and the effect of the right to present evidence at the hearing.~~

3) For purposes of calculating the 30 calendar day period in which to petition the Department for release from or modification of the administrative order for support or to request redetermination of the review results, the day immediately subsequent to the mailing of the order or determination shall be considered the first day and the day such request is received by the Department shall be considered as the last day.

h) Further Actions Taken by the Department

1) The Department shall take the following action when the FSS has determined in accordance with subsection (f) above that the Quantitative Standard for Review has been met or when the Quantitative Standard for Review has not been met, but there is a determination that the order for support needs to be modified to require provision of health insurance:

- A) In a case involving an order for support entered by the court, the FSS shall:
- i) prepare a petition to modify, and obtain or affix appropriate signature thereto;
 - ii) refer the case for legal action to modify the order for support pursuant to Section 510 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/510]; and
 - iii) provide the client and responsible relative with the notice described in subsection (g)(2)(B) above.
- B) In a case involving an administrative order for support established under Section 160.60(d), or modified under this

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

rule, the FSS shall enter an administrative order for support incorporating the results of the review and containing the information specified in Section 160.60(d)(5). Any order for health insurance shall be entered in accordance with Section 160.60(c)(7).

i) The FSS shall effect income withholding in accordance with Section 160.60(d)(6).

ii) The FSS shall provide to the client and responsible relative copies of the administrative order for support together with the notice described in subsection (g)(2)(C) above.

2) In IV-D cases where the client is neither an applicant for nor a recipient of medical assistance, the Department, with the client's consent, shall enter or request the court to enter an order for support requiring the responsible relative to provide health insurance.

3) Upon receipt of a petition for a release from, or modification of, an administrative order for support as described in subsection (g)(2)(C)(ii) within 30 calendar days after the date of mailing of such order, the Department will provide a hearing in accordance with 89 Ill. Adm. Code 104.102. The 30 calendar day period shall be calculated in accordance with subsection (g)(3) above.

4) Upon receipt of a request for a redetermination as set forth in subsections (g)(1)(C) and (g)(2)(C)(i) within 30 calendar days after the date of mailing of the notice, the Department shall conduct such redetermination. The 30 calendar day period shall be calculated in accordance with subsection (g)(3) above.

i) Timeframes for Review and Modification

1) In any case in which there is an assignment of support or an assignment of medical support, the Department shall determine within 15 calendar days of October 13, 1993, or the date the order is 36 months old, whichever is later, whether a review should be conducted as provided in subsection (b)(1) above.

2) Subsequent determinations about whether to review an order for support in a case in which there is an assignment of support or an assignment of medical support shall be made by the Department in accordance with subsection (b)(1) above, at 36 month intervals based upon:

A) the date the order for support was modified; or
B) the date an order was entered determining that the order for support would not be modified; or
C) the date the period expired for requesting redetermination of the Department's review decision not to seek modification of the order for support.

3) Within 15 calendar days of receipt of a request for a review, the Department shall determine whether a review should be conducted in accordance with subsection (b)(1) above.

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

4) Within 180 calendar days of determining that a review should be conducted or locating the non-requesting parent, whichever occurs later, the Department shall:

A) send the notice of review in accordance with subsection (d) above;

B) conduct a review of the order in accordance with subsection (f) above;

C) send the notice of review results in accordance with subsection (g) above; and

D) conclude any action to modify the order for support.

j) Interstate Review and Modification

1) Initiating Cases

A) In any case in which there is an assignment of support or an assignment of medical support, the Department shall determine, within 15 calendar days of October 13, 1993, or the date the order for support is 36 months old, whichever date occurs later, whether a review should be conducted, as required under subsection (b)(1) above, and whether the review should be conducted by the Department or another state.

B) Subsequent determinations about whether to conduct a review shall be made in accordance with subsection (b)(1) above, at 36 month intervals based upon:

i) the date the order for support was modified; or

ii) the date an order was entered determining that the order for support would not be modified; or

iii) the date the period expired for requesting redetermination of a review decision not to seek modification of the order for support.

C) Within 15 calendar days of receipt of a request for a review, the Department shall determine whether a review should be conducted, as required under subsection (b)(1) above, and whether the review should be conducted by the Department or another state.

D) Prior to the expiration of the 36 month period, the Department:

i) shall review or request another state to review an order for support under the circumstances set forth in subsections (b)(2)(A) and (B) above; and

ii) may review or request another state to review an order for support as provided in subsection (b)(2)(C).

E) The Department shall determine in which state a review should be conducted after considering all relevant factors, including but not limited to:

i) the location of existing order(s);

ii) the present residence of each party; and

iii) whether a particular state has jurisdiction over the parties.

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- F) In any case coming under the provisions of subsections (j)(1)(A), (B) and (C) above, in which the Department has determined to request a review of an order for support in another state, the Department shall:
- i) send a request for review to that state within 20 calendar days of receipt of sufficient information to conduct the review and provide that state with sufficient information on the requestor of review to act on the request; and
 - ii) send to the parent in Illinois, a copy of any notice issued by the responding state in connection with the review and modification of the order, within five working days of receipt of such notice by the Department.
- 2) Responding Cases
- A) Within 15 calendar days after receipt of a request for a review of an order for support in Illinois as the responding state, the Department shall determine whether a review should be conducted in accordance with subsection (b)(1).
 - B) Within 180 calendar days after determining that a review should be conducted or locating the non-requesting parent, whichever occurs later, the Department shall take the actions specified in subsection (i)(4) above.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. **17046**, effective September 10, 1998, for a maximum of 150 days)

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section 160.70 Enforcement of Support Orders
EMERGENCY

- a) Definitions
The definitions contained in Section 160.60(a) are incorporated herein by reference.
- b) Income Withholding
Whether using the administrative process (see Section 160.60(d)) or the judicial process (see Section 160.60(e)), the Department shall follow the procedures for withholding of income contained in Section 160.75 to enforce and collect past-due support owed by responsible relatives in IV-D cases and it shall as promptly as possible distribute all amounts collected. In addition to income as defined in Section 160.75, the Department shall proceed to collect support from the principal and income of trusts as provided by Section 2-1403 of the Code of Civil Procedure [735 ILCS 5/2-1403].
- c) Federal and State Income Tax Refunds and Other State Payments
 - 1) The Department shall collect past-due support owed by responsible relatives in IV-D cases through intercept of federal and State

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- income tax refunds and other federal and State payments (see Section 10.05a of the State Comptroller Act [15 ILCS 405/10.05a] and the Debt Collection Improvement Act of 1996 [31 USC 3701 et seq.]) due such relatives.
- 2) The Department shall submit past-due support amounts to:
- A) the Department of Health and Human Services to intercept federal income tax refunds and other federal payments in accordance with federal instructions as follows:
 - i) in IV-D TANF and IV-D foster care cases, past-due support owed for a child or for a child and the parent with whom the child is living in an amount not less than \$150 which has been in arrears for 3 months or longer; and
 - ii) in IV-D non-TANF cases, past-due support owed to or for a minor child in an amount not less than \$500.
 - B) the Comptroller to intercept State income tax refunds and other State payments as follows:
 - i) in active IV-D cases, past-due support owed in an amount not less than one month's support obligation or \$150, whichever is less;
 - ii) in inactive IV-D TANF or AFDC and IV-D foster care cases, past-due support owed in any amount; and
 - iii) in cases in which the responsible relative who owes past-due support is receiving periodic payments from this State because of employment, disability, retirement or any other reason, the Department shall, upon obtaining knowledge of such circumstances, refund any amounts inadvertently intercepted to the responsible relative and proceed to collect past-due support pursuant to the income withholding provisions of the support statutes.
- 3) The Department shall provide the responsible relative with a notice prior to submitting a past-due support amount for intercept, which advance notice shall inform the responsible relative of the following:
- A) the IV-D case name and identification number;
 - B) the past-due support amount which will be submitted for intercept;
 - C) the right to contest the determination that past-due support is owed or the amount of past-due support by requesting:
 - i) a redetermination by the Department or, after such redetermination, an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, at the request of the responsible relative; and
 - ii) that the Internal Revenue Service or Financial Management

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

Service will notify the responsible relative's spouse at the time of intercept regarding the steps to take to protect the share of the refund which may be payable to that spouse, in the case of a joint federal income tax return.

- 4) A request for a redetermination made within 15 days from the date of mailing of the advance notice shall stay the Department from submitting the past-due amount.
- 5) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by requesting:
 - A) a hearing by the Department within 30 days from the date of mailing of the notice; or
 - B) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based.

- 6) If a responsible relative requests administrative review by the state in which the support order was issued upon which the referral for federal income tax refund intercept of other federal payment offset is based, the Department shall notify the state with the order of the request and shall provide that state with all necessary information within 10 days of the responsible relative's request. The Department shall be bound by the decision of the state with the order.

- 7) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

- 8) The Department shall notify:
 - A) any other state enforcing the support order when the request for intercept is submitted and when the intercept amount is received;
 - B) the Department of Health and Human Services of any deletion of an amount submitted for federal income tax refund intercept or other federal payment offset, in accordance with federal instructions;

- C) the Comptroller of any deletion of an amount submitted for State income tax refund or other payment intercept or any significant decrease in the amount; and
- D) the Clerk of Circuit Court of the county in which the child support order was entered of any amount intercepted for posting to the court payment record.

- 9) The Department shall:
 - A) as promptly as possible refund to the responsible relative any amount intercepted found to exceed the amount of past-due support owed; and
 - B) equitably apportion joint State income tax refunds and other State payments based upon copies of federal and State income tax returns, including all schedules and attachments, or

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

other evidence of ownership, such equitable apportionment to be based on the documented proportionate net income of the parties, and pay to the joint payee that portion of the amount intercepted found to be his; except that the Comptroller shall apportion such refunds and payments in matters where the intercepted funds have not yet been transferred to the Department.

- 10) The Department shall as promptly as possible apply collections it receives as a result of intercept under this subsection only against the past-due support amount specified in the advance notice provided the responsible relative pursuant to subsection (c)(3) above and shall promptly apply:
 - A) federal income tax refunds first to satisfy any IV-D TANF or AFDC or IV-D foster care assigned past-due support and then to satisfy any IV-D non-TANF past-due support; and
 - B) other federal and State payments in accord with distribution provisions in Subpart F of this Part. State-income-tax refunds-and-other-State-payments-to-satisfy-any-active-IV-B-TANF--and-IV-B-foster-care--assigned-past-due-support--or first-to-satisfy-active-IV-B-non-TANF-past-due-support--and then--to-satisfy-any-IV-B-TANF-or-APBE-and-IV-B-foster-care assigned-past-due-support.

- 11) The Department shall inform individuals who receive IV-D non-TANF support enforcement services, in advance, of the following:
 - A) amounts intercepted under this subsection (c) will be applied in accordance with Section 160.130;
 - B) any payment received by the IV-D non-TANF individual as a result of federal income tax refund intercept may have to be returned to the Department within six years following the end of the tax year if there is an adjustment necessitated by the responsible relative's spouse filing an amended tax return in order to receive his share of a joint tax refund.

- d) Unemployment Insurance Benefits

- 1) The Department shall collect support owed by responsible relatives in IV-D cases through intercept of unemployment insurance benefits in matters wherein the relative has accumulated a past-due support amount equal to a one month support obligation.

- 2) The Department shall take the following action:
 - A) ascertain that the responsible relative qualifies for receipt of unemployment insurance benefits through access to the Department of Employment Security's (DES) computer file.
 - B) collect child support owed through the intercept of unemployment insurance benefits by initiating procedures for income withholding in accordance with Section 160.75.
 - C) establish the amount to be deducted by data entry to DES's computer file, which amount shall be the lesser of:
 - i) the amount of the income withholding order; or

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- ii) fifty percent (50%) of the Unemployment Insurance Benefit.
 - D) receive amounts deducted direct from DES.
 - E) notify the Clerk of the Circuit Court of the county in which the child support order is registered of each collection for posting to the court payment record.
 - F) post each collection to the Department's payment record.
 - G) apply each collection to the current support obligation, then to past-due obligations.
 - H) provide a redetermination within 180 days from the date of request for redetermination to each relative who disputes the deduction and, where indicated, make adjustments and refund improperly deducted amounts.
- 3) The Department of Employment Security shall take the following action:
- A) provide notice to the responsible relative and an opportunity to be heard, when the Department cannot resolve the dispute.
 - B) pay all amounts deducted direct to the Department.
- e) Contempt of Court and Other Legal Proceedings
- 1) The Department shall refer IV-D cases to its legal representatives to initiate contempt of court and other legal proceedings, pursuant to the applicable provisions of the support statutes, for enforcement of orders for support in matters wherein the responsible relative has accumulated a past-due support amount equal to not less than a one month support obligation, except as set forth in subsection (e)(2) below.
 - 2) Contempt proceedings shall not be used in the following instances:
 - A) the responsible relative has no known available income or assets from which to satisfy the support obligation and is:
 - i) receiving public assistance;
 - ii) mentally or physically disabled;
 - iii) incarcerated;
 - iv) out-of-the-country;
 - v) deceased; or
 - vi) otherwise situated making such action unproductive.
 - B) other legal or administrative remedies are more appropriate under the circumstances.
- 3) Contempt and other legal proceedings shall be used to:
- A) establish the amount of past-due support;
 - B) obtain a judgment for purposes of:
 - i) imposition of a lien against real estate,
 - ii) levy upon real estate and personal property, or
 - iii) registration in another state;
 - C) secure an order for lump sum or periodic payment of the past-due support or judgment;
 - D) require the responsible relative to post security, bond or

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- give some other guarantee of a character and amount sufficient to assure payment of any amount due under the support order;
- E) obtain full or partial payment of past due support through incarceration;
 - F) ascertain the responsible relative's source and amount of income or location and value of assets;
 - G) void a transfer of property fraudulently made to avoid payment of child support in accordance with the Uniform Fraudulent Transfer Act [740 ILCS 160] or obtain a settlement in the best interest of the child support creditor;
 - H) secure other enforcement relief; and
 - I) obtain any combination of the above.
- 4) During the course of contempt or other legal proceedings to enforce support, if it shall appear that there is no net income because of the unemployment of a responsible relative, who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving TANF in Illinois, the Department shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives under Section 9-6 of the Illinois Public Aid Code [305 ILCS 5/9-6].
- 5) In TANF cases, the Department shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].
- f) Liens Against Real Estate and Personal Property - Judicial Enforcement of Order for Support
- 1) The Department shall seek judgment liens against real estate and enforce judgments upon the real estate and personal property of responsible relatives, in IV-D cases in which a referral has been made to initiate court enforcement of an order for support, in accordance with Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII].
 - 2) A petition for a rule to show cause or other petition filed by a Department legal representative to enforce an order for support shall contain a prayer that judgment be entered against the responsible relative in the amount of the past-due support alleged in the petition, when both of the following circumstances exist:
 - A) the past-due amount is at least \$10,000; and
 - B) the responsible relative has an interest in real estate or personal property against which the judgment may be enforced.

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- 3) Upon obtaining a judgment, Department legal representatives shall secure liens against the real estate of responsible relatives by filing a transcript, certified copy, or memorandum of judgment in the county wherein the real estate is located, in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII]).
- 4) A judgment shall be enforced by levy upon the real estate and personal property of the responsible relative in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII]) when the relative has a known equity which is not less than \$10,000 in excess of any statutory exemption.
- g) Liens Against Real Estate and Personal Property - Administrative Enforcement of Order for Support
- 1) Liens against real estate
- A) The Department shall impose liens against real estate of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when both of the following circumstances exist:
- i) the amount of past-due support is at least \$10,000; and
 - ii) the responsible relative has an interest in real estate against which a lien may be claimed.
- B) The Department shall prepare a Notice of Lien or Levy that shall be served upon the responsible relative and filed with the Recorder or Registrar of Titles of the county in which the real estate of the responsible relative is located. The notice shall inform the responsible relative and the Recorder or Registrar of Titles of the following:
- i) the name and address of the responsible relative;
 - ii) a legal description of the real estate to be levied;
 - iii) the amount of past-due support to be satisfied by the levy;
 - iv) the fact that a lien is being claimed for past-due child support owned by the responsible relative; and
 - v) the right to prevent action against the real property by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
- C) A written request for redetermination made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from taking action against the real property, although the lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (g).
- D) The Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by making a written request

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- for a hearing by the Department within 30 days after the date of mailing of the notice.
- E) A written request for hearing made within 30 days after the date of mailing the notice of results of redetermination shall stay the Department from taking action against the real property, if action against the real property had been stayed pursuant to subsection (g)(1)(C) of this Section. The lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (g).
- F) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the written request for hearing, except that 89 Ill. Adm. Code Section 104.103(b) and (c) shall not apply.
- G) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- H) The lien shall be enforced against the real estate in accordance with Article X of the Illinois Public Aid Code and Article XII of the Code of Civil Procedure when the responsible relative has a known equity in the real estate that is not less than \$10,000 in excess of any statutory exemption.
- 2) Liens against personal property
- A) The Department shall impose liens against personal property of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when the following circumstances exist:
- i) the amount of past-due support is at least \$1,000;
 - ii) the responsible relative has an interest in personal property against which a lien may be claimed; and
 - iii) if the personal property to be levied is an account as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24], the account is valued in the amount of at least \$300.
- B) The Department shall prepare a Notice of Lien or Levy that shall be served upon the responsible relative and either the financial institution in which the account of the responsible relative is located or the sheriff of the county in which the personal property of the responsible relative is located. The notice shall inform the responsible relative and the financial institution or the sheriff of the following:
- i) the name and address of the responsible relative;
 - ii) a description of the account or personal property to be levied;
 - iii) the amount of past-due support to be satisfied by the levy;
 - iv) the fact that a lien is being claimed for past-due

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- v) child support owed by the responsible relative; and the right to prevent action against the personal property, including accounts, by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
- C) In addition to the information to be included in the Notice of Lien or Levy under subsection (g)(2)(B), the Notice of Lien or Levy served upon a financial institution shall:
- i) state that the lien is subordinate to any prior lien or prior right of set-off that the financial institution may have against the assets, or in the case of an insurance company or benefit association only in the accounts as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24];
 - ii) state that upon being served with the Notice of Lien or Levy that the financial institution shall encumber the assets in the account, and surrender and remit such assets within five days after being served with a Notice to Surrender Assets by the Department;
 - iii) state that the financial institution may charge the responsible relative's account a fee of up to \$50, and that the amount of any such fee be deducted from the account before remitting any assets from the account to the Department; and
 - iv) include a form, Response to Notice of Lien or Levy, to be completed by the financial institution and returned to the Department with the surrendered assets from the levied account.
- D) The form for the response to Notice of Lien or Levy provided for under subsection (g)(2)(C)(iv) of this Section shall include provisions for the financial institution to complete stating:
- i) the amount of assets in the responsible relative's account;
 - ii) the amount of the fee to be deducted from the account;
 - iii) the amount of assets in the account subject to a prior lien or prior right of set-off of the financial institution; and
 - iv) the amount of assets surrendered and remitted to the Department.
- E) A written request for redetermination made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from taking action against the personal property, although the lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (g).

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- F) The Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by making a written request for a hearing by the Department within 30 days after the date of mailing of the notice.
- G) A written request for hearing made within 30 days after the date of mailing the notice of results of redetermination shall stay the Department from taking action against the personal property, if action against the personal property had been stayed pursuant to subsection (g)(2)(E) of this Section. The lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (g).
- H) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the written request for hearing, except that 89 Ill. Adm. Code Section 104.103(b) and (c) shall not apply.
- I) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- J) Information obtained from financial institutions as to the location of personal property, including accounts, of responsible relatives shall be subject to all State and federal confidentiality laws and regulations. Following data exchange with financial institutions to locate personal property of responsible relatives, the Department shall return to financial institutions such data that does not relate to a responsible relative whose personal property may be subject to lien or levy under this subsection (g).
- h) Security, Bond or Other Guarantee of Payment
- 1) Except as provided in subsections (h)(2) and (3) below, the Department shall require, or through its legal representative shall request the court to require, a responsible relative to post security, bond, or give some other guarantee of a character and amount sufficient to assure payment of any amount due under a support order in IV-D cases, pursuant to Section 10-17.4 of the Illinois Public Aid Code [305 ILCS 5/10-17.4].
 - 2) In cases in which the support obligation is established through the administrative process contained in Section 160.60, the notice of support obligation provided to the responsible relative shall indicate that the Department may require the relative to post security, bond or give some other guarantee of payment. Except where the responsible relative is subject to income withholding, the administrative support order shall contain this requirement in an amount equal to a one year support obligation. In acting upon a referral to establish a support obligation or to enforce an existing order for support, Department legal representatives shall include in the complaint or petition a
 - 3)

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

prayer for an order requiring the responsible relative to post security, bond, or give some other guarantee of payment equal to a one year support obligation, unless the relative is subject to the income withholding provisions of the support statutes.

i) Past-Due Support Information to Consumer Reporting Agencies

1) The Department shall report the following information concerning responsible relatives in IV-D cases to consumer reporting agencies when the amount of past-due support is or exceeds that required for intercepting federal income tax refunds as provided in subsection (c)(2)(A) of this Section:

- A) the name, last known address and Social Security Number of the responsible relative; and
- B) the terms and amount of past-due support which has accumulated under the order for support.

2) The Department shall provide the responsible relative with a notice at least 15 days prior to furnishing past-due support information to consumer reporting agencies, which advance notice shall inform the relative of the following:

- A) the IV-D case name and identification number;
- B) the past-due support amount which will be reported;
- C) the date past-due support will be reported; and
- D) the right to prevent reporting by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.

3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent reporting by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days from the date of mailing of the notice.

4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

5) The Department shall be stayed from providing information to consumer reporting agencies by either of the following:

- A) a request for
- i) a redetermination, or
- ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or

B) payment in full of the amount of the past-due support stated in the

- i) advance notice, or
- ii) notice of redetermination or hearing results.

6) The Department shall advise consumer reporting agencies of changes in the amount of the past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.

ii) High-Volume Automated Administrative Enforcement in Interstate Cases

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

1) The Department shall use high-volume automated administrative enforcement, to the same extent as used for interstate cases, in response to a request of another state to enforce support orders, and used for interstate cases, in response to a request of another state to enforce support orders, and shall promptly report the results of such enforcement activity to the requesting state.

2) High-volume automated administrative enforcement means that, upon a request of another state, the Department shall identify, through automated data matches with financial institutions and other entities, where assets may be found of persons who owe child support in other states, and seize such assets through levy or other appropriate processes.

3) The Department may, by electronic or other means, transmit to another state a request for assistance in a case involving the enforcement of a support order. The request shall:

- A) Include such information that will enable the state to which the request is transmitted to compare the information about the case to the information in the databases of that state.
- B) Constitute a certification by the Department of the amount of support owed and that the Department has complied with all procedural due process requirements applicable to each case.

4) If the Department provides assistance to another state pursuant to this Section with respect to a case, neither state shall consider the case to be transferred to the caseload of such other state.

5) The Department shall maintain records of:

- A) The number of such requests for assistance received by the Department.
- B) The number of cases for which the Department collected support in response to such a request and the actual amount(s) of such support collected.

k)† Past-Due Support Certified to the Illinois Department of Revenue or to the IV-D Agency of Another State for Administrative Enforcement in the Other State

1) The Department may collect past-due support owed by responsible relatives in IV-D cases through certification of the account balance to the Illinois Department of Revenue for collection (see Section 10-17.9 of the Public Aid Code [305 ILCS 5/10-17.9]) or to another state's IV-D agency for administrative enforcement where the responsible relative has property in the other state.

2) The Department may submit past-due support amounts to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state when the following conditions exist:

- A) past-due support is owed for a child or for a child and the parent with whom the child is living;

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- B) the responsible relative has made no payment directly or through income withholding within 30 days prior to the date of the advance notice under subsection (j)(3) of this Section;
- C) as of the date of certification, the responsible relative does not have a bankruptcy case pending; and
- D) the responsible relative is not deceased.
- 3) The Department shall provide the responsible relative with a notice prior to certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state, which advance notice shall inform the responsible relative of the following:
- A) the IV-D case name and identification number;
- B) the past-due support amount which will be submitted for collection;
- C) the right to contest the determination that past-due support is owed or the amount of past-due support by making a written request for a redetermination by the Department; and
- D) that the responsible relative may avoid certification by establishing a satisfactory repayment plan as determined by the Department.
- 4) Factors for a satisfactory repayment plan will include, but are not limited to:
- A) the amount of past-due support owed;
- B) the amount to be paid toward the past-due amount;
- C) the amount of current child support obligations; and
- D) the individual's ability to pay.
- 5) The Department shall provide the Illinois Department of Revenue, or the IV-D agency of another state for administrative enforcement in the other state, the following descriptive information on the responsible relative:
- A) name;
- B) social security number;
- C) IV-D identification number; and
- D) the past-due support amount.
- 6) A written request for redetermination made within 15 days after the date of mailing the advance notice shall stay the Department from certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state.
- 7) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by making a written request for a hearing by the Department within 30 days after the date of mailing of the notice.
- 8) A written request for hearing made within 30 days after the date of mailing the notice of results of redetermination shall stay

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- the Department from certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state, if certifying the balance had been stayed pursuant to subsection (j)(6) of this Section.
- 9) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that Section 104.103(b) and (c) shall not apply.
- 10) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- 11) The Department shall:
- A) apply any overpayment by the responsible relative pursuant to the certification for collection as a credit against future support obligation; or
- B) if the current support obligation of the responsible relative has terminated by operation of law or court order, as promptly as possible refund to the responsible relative any overpayment, pursuant to certification for collection, which is still in the possession of the Department.
- 11(k) Past-Due Support Information to the Secretary of Health and Human Services for Denial of Passports
- 1) The Department shall report the following information concerning responsible relatives in IV-D cases to the Secretary of Health and Human Services for denial of passports when the amount of past-due support exceeds \$5,000:
- A) the name, last known address and Social Security Number of the responsible relative; and
- B) the terms and amount of past-due support which has accumulated under the order for support.
- 2) The Department shall provide the responsible relative with a notice at least 15 days prior to certifying past-due support to the Secretary of Health and Human Services, which advance notice shall inform the relative of the following:
- A) the IV-D case name and identification number;
- B) the past-due support amount which will be certified;
- C) the date past-due support will be certified; and
- D) the right to prevent certification by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
- 3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent certification by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- 4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
- 5) The Department shall be stayed from providing information to the Secretary of Health and Human Services by either of the following:
 - A) a request for
 - i) a redetermination, or
 - ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or
 - B) payment in full of the amount of the past-due support stated in the
 - i) advance notice, or
 - ii) notice of redetermination or hearing results.
- 6) The Department shall advise the Secretary of Health and Human Services of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.

m) Other Remedies

The Department shall pursue any other remedies provided for by law to enforce and collect past-due support owed by responsible relatives in IV-D cases.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 17046, effective September 10, 1998, for a maximum of 150 days)

Section 160.75 Withholding of Income to Secure Payment of SupportEMERGENCY

- a) Definitions

The definitions contained in Section 10-16.2(A) of the Illinois Public Aid Code [305 ILCS 5/10-16.2(A)] are incorporated herein by reference.
- b) Entry of Order for Support Containing Income Withholding Provisions; Income Withholding Notice
 - 1) The Department, through its legal representative, shall request that when entering an order for support the court include in the order the following income withholding provisions, as required by law:
 - A) that an income withholding notice be prepared by the Department and served immediately upon any payor of the obligor, unless a written agreement is reached between and signed by both parties providing for an alternative arrangement, approved and entered into the record by the court, which ensures payment of support. In that case, the Department, through its legal representative, shall request that the order for support provide that an income withholding notice is to be prepared and served only if the obligor becomes delinquent in paying the order for support; and

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- B) a dollar amount to be paid until payment in full of any delinquency that accrues after entry of the order for support; the dollar amount not to be less than 20 percent of the total of the current support amount and the amount to be paid periodically for payment of any arrearage stated in the order for support; and
 - C) the obligor's Social Security Number disclosed to the court as required by law; and
 - D) if the obligor is not a United States citizen, the obligor's alien registration number, passport number, and home country's social security or national health number disclosed to the court as required by law.
- 2) The income withholding notice prepared by the Department shall:
 - A) be in the standard format prescribed by the federal Department of Health and Human Services; and
 - B) state the date of entry of the order for support upon which the income withholding notice is based; and
 - C) direct any payor to withhold the dollar amount required for current support under the order for support; and
 - D) direct any payor to withhold the dollar amount required to be paid periodically under the order for support for payment of the amount of any arrearage stated in the order for support; and
 - E) direct any payor or labor union or trade union to enroll a child as a beneficiary of a health insurance plan and withhold or cause to be withheld, if applicable, any required premium; and
 - F) state the amount of the payor income withholding fee as provided by law; and
 - G) state that the amount actually withheld from the obligor's income for support and other purposes, including the payor's withholding fee, may not be in excess of the maximum amount permitted under the federal Consumer Credit Protection Act; and
 - H) state the duties of the payor and the fines and penalties provided by law for failure to withhold and pay over income and for discharging, disciplining, refusing to hire, or otherwise penalizing the obligor because of the duty to withhold and pay over income; and
 - I) state the rights, remedies, and duties of the obligor, as provided by law; and
 - J) include the obligor's Social Security Number; and
 - K) include the date withholding for current support terminates, which shall be the date of termination of the current support obligation set forth in the order for support; and
 - L) contain the signature of the obligee or the printed name and telephone number of the authorized representative of the

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

public office, except that the failure to contain the signature of the obligee or the printed name and telephone number of the authorized representative of the public office shall not affect the validity of the income withholding notice.

- 3) Notwithstanding the exception to immediate income withholding referred to in subsection (b)(1)(A) above, if the court finds at the time of any hearing that an arrearage has accrued, the Department, through its legal representative, shall request that the court order immediate service of an income withholding notice upon the payor, as required by law.

c) Service of Income Withholding Notice

- 1) If the order for support requires immediate service of an income withholding notice, the Department shall serve the notice on the payor within 15 days after the date the order is entered if the payor's address is known on that date, or, if the address is unknown on that date, within 15 days after locating the payor's address. However, notwithstanding the foregoing, if the Department receives the payor's address from the Illinois Directory of New Hires, as established under Section 1801.1 of the Unemployment Insurance Act [820 ILCS 405/1801.1], the Department shall serve an income withholding notice on the payor within two business days after the date information regarding the obligor and payor is entered into the Illinois Directory of New Hires.

- 2) The Department may serve the income withholding notice on the payor, its superintendent, manager, or other agent by ordinary mail or certified mail, return receipt requested, by facsimile transmission or other electronic means, by personal delivery, or by any method provided by law for service of a summons. At the time of service on the payor and as notice that withholding has commenced, the Department shall serve a copy of the income withholding notice on the obligor by ordinary mail addressed to his or her last known address. A copy of the income withholding notice together with proofs of service on the payor and the obligor shall be filed by the Department with the Clerk of the Circuit Court.

- 3) Notwithstanding the fact that the order for support, under the exception to immediate withholding referred to in subsection (b)(1)(A) above, provides that an income withholding notice is to be prepared and served only if the obligor becomes delinquent in paying the order for support, the Department shall serve an income withholding notice on the payor prior to accrual of a delinquency if the obligor executes a written waiver of that condition and requests immediate service on the payor.

- 4) At any time after the initial service of an income withholding notice, the Department may serve any other payor of the obligor with the same income withholding notice without further notice to

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

the obligor. A copy of the income withholding notice together with a proof of service on the other payor shall be filed with the Clerk of the Circuit Court.

d) Income Withholding After Accrual of Delinquency

- 1) The Department shall prepare and serve an income withholding notice within 15 days after the date the obligor accrues a delinquency if the payor's address is known on that date or, if the address is unknown on that date, within 15 days after locating the payor's address. However, notwithstanding the foregoing, if the payor's address is unknown on the date the obligor accrues a delinquency, and the Department receives the payor's address from the Illinois Directory of New Hires, the Department shall serve an income withholding notice on the payor within two business days after the date information regarding the obligor and payor is entered into the Illinois Directory of New Hires.

- 2) An income withholding notice prepared by the Department under subsection (d)(1) above shall:

- A) contain the information required under subsection (b)(2) above; and
 - B) contain a computation of the period and total amount of delinquency as of the date of the notice; and
 - C) direct the payor to withhold the dollar amount required to be withheld periodically under the order for support for payment of the delinquency; and
 - D) be served on the payor and the obligor in the manner provided in subsection (c)(2) above.
- 3) The obligor may contest withholding commenced under this subsection (d) by filing a petition to contest withholding with the Clerk of the Circuit Court within 20 days after service of a copy of the income withholding notice on the obligor. However, as required by law, the grounds for the petition to contest withholding shall be limited to:
 - A) a dispute concerning the existence or amount of the delinquency; or
 - B) the identity of the obligor.
 - 4) The accrual of a delinquency as a condition for service of an income withholding notice, under the exception to immediate withholding referred to in subsection (b)(1)(A) above, shall apply only to the initial service of an income withholding notice on a payor of the obligor.

e) Initiated Withholding

- 1) Notwithstanding any other provision of this Section, if the court has not required that income withholding take effect immediately, the Department, pursuant to this subsection (e), may initiate withholding regardless of whether a delinquency has accrued, by preparing and serving an income withholding notice on the payor that contains the information required under subsection (b)(2)

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

above and states that the parties' written agreement providing an alternative arrangement to immediate withholding under subsection (b)(1)(A) above no longer ensures payment of support, and the reason or reasons why it does not.

- 2) The income withholding notice and the obligor's copy of the income withholding notice shall be served as provided in subsection (c)(2) above.

- 3) The obligor may contest withholding commenced under this subsection (e) by filing a petition to contest withholding with the Clerk of the Circuit Court within 20 days after service of a copy of the income withholding notice on the obligor. However, as required by law, the grounds for the petition to contest withholding shall be limited to a dispute concerning the conditions in subsections (e)(3)(A) and (B) below (it shall not be grounds for filing a petition that the obligor has made all payments due by the date of the petition):

- A) whether the parties' written agreement providing an alternative arrangement to immediate withholding under subsection (b)(1)(A) above continues to ensure payment of support; or

- B) the identity of the obligor.

- f) Petition to Modify, Suspend or Terminate an Order for Withholding

- 1) At any time the Department, through its legal representative, may petition the court to:

- A) modify, suspend or terminate the income withholding notice because of a modification, suspension, or termination of the underlying order for support;

- B) modify the amount of income to be withheld to reflect payment in full or in part of the delinquency or arrearage by income withholding or otherwise; or

- C) suspend the income withholding notice because of inability to deliver income withheld to the obligee due to the obligee's failure to provide a mailing address or other means of delivery.

- 2) The Department shall serve on the payor, in the manner provided for service of income withholding notices in subsection (c)(2) above, a copy of any order entered pursuant to this subsection (f) that affects the duties of the payor.

- 3) The Department may serve a notice on the payor to:

- A) cease withholding of income for payment of current support for a child when the support obligation for that child has automatically ceased under the order for support through emancipation or otherwise; or
- B) cease withholding of income for payment of delinquency or arrearage when the delinquency or arrearage has been paid in full.

- 4) The notice provided for under subsection (f)(3) above shall be served on the payor in the manner provided for service of income

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

withholding notices in subsection (c)(2) above, and a copy shall be provided to the obligor and the obligee.

- g) Additional Duties

- 1) When the Department is no longer authorized to receive payments for the obligee, it shall, within seven days, notify the payor or, where appropriate, the Clerk of the Circuit Court, to redirect income withholding payments to the obligee.

- 2) The Department shall provide notice to the payor and Clerk of the Circuit Court of any other support payment made, including but not limited to:

- A) an offset under federal or State law; or

- B) partial payment of the delinquency or arrearage or both.

- h) Alternative Procedures for Service of an Income Withholding Notice

- 1) The procedures of this subsection (h) shall be used by the Department in any matter to serve an income withholding notice on a payor if:

- A) For any reason the most recent order for support entered does not contain the income withholding provisions stated in subsection (b) above, irrespective of whether a separate order for withholding was entered prior to July 1, 1997; and
- B) The obligor has accrued a delinquency after entry of the most recent order for support.

- 2) The Department shall prepare and serve the income withholding notice in accordance with the provisions of subsection (d) above, except that the notice shall contain a periodic amount for payment of the delinquency equal to 20 percent of the total of the current support amount and the amount to be paid periodically for payment of any arrearage stated in the most recent order for support.

- 3) If the obligor requests in writing that income withholding become effective prior to the obligor accruing a delinquency under the most recent order for support, the Department shall prepare and serve an income withholding notice on the payor as provided in subsections (b) and (c) above. In addition to filing proofs of service of the income withholding notice on the payor and the obligor, the Department shall file a copy of the obligor's written request for income withholding with the Clerk of the Circuit Court.

- i) Notice to Payor

Whenever the Department serves an income withholding notice on a payor, notice of the following shall be included in or with the income withholding notice:

- 1) that the payor must begin deducting no later than the next payment of income which is payable or creditable to the obligor that occurs 14 days following the date the income withholding notice was mailed, sent by facsimile or other electronic means, or placed for personal delivery to or service on the payor;
- 2) that the payor must pay the amount withheld to the obligee or

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

public office, as the case may be, within seven business days after the date the amount would (but for the duty to withhold income) have been paid or credited to the obligor;

- 3) that if the payor knowingly fails to pay any amounts withheld within seven business days after the date the amount would have been paid or credited to the obligor, the payor is subject to a penalty of \$100 for each day that the withheld amount is not paid to the obligee or public office after the period of seven business days has expired;
- 4) that the payor may combine all amounts withheld for the benefit of an obligee or public office into a single payment and transmit the payment with a listing of obligors from whom withholding has been effected;
- 5) that for each deduction the payor must provide the obligee or public office, at the time of transmittal, with the date the amount would (but for the duty to withhold income) have been paid or credited to the obligor;
- 6) that upon receipt of an income withholding notice requiring that a minor child be named as a beneficiary of a health insurance plan available through an employer, labor union or trade union, that the employer or labor union or trade union must:
 - A) immediately enroll the minor child as a beneficiary in the health insurance plan designated by the income withholding notice;
 - B) withhold or cause to be withheld, if applicable, any required premium and pay over any amounts so withheld to the insurance carrier in a timely manner;
 - C) mail to the obligee, within 15 days after enrollment or upon request, notice of the date of coverage, information on the dependent coverage plan, and all forms necessary to obtain reimbursement for covered health expenses, such as would be made available to a new employee;
 - D) when an order for dependent coverage is in effect and the insurance coverage is terminated or changed for any reason, notify the obligee within ten days after the termination or change date along with notice of conversion privileges;
- 7) that for withholding of income, the payor is entitled to a fee not to exceed \$5 per month to be taken from the income to be paid to the obligor;
- 8) that the amount actually withheld for support, the child's health insurance premium and payor withholding fee shall not exceed the maximum amount permitted under the federal Consumer Credit Protection Act;
- 9) that whenever the obligor is no longer receiving income from the payor, the payor must return a copy of the income withholding notice to the Department and provide the obligor's last known address and the name and address of the obligor's new payor, if known;

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- 10) that withholding of income under the income withholding notice must be made without regard to any prior or subsequent garnishments, attachments, wage assignments, or any other claims of creditors;
 - 11) that the income withholding notice is binding upon the payor until service of an order of the court or a notice from the Department or Clerk of the Circuit Court;
 - 12) that the payor is subject to a fine of up to \$200 for discharging, disciplining or otherwise penalizing an obligor because of the duty to withhold income;
 - 13) that if the payor willfully fails to withhold or pay over income pursuant to a properly served income withholding notice that the payor is liable for the total amount that the payor willfully failed to withhold or pay over;
 - 14) that if the payor has been served with more than one income withholding notice pertaining to the same obligor, the payor shall allocate income available on a proportionate share basis, giving priority to current support payments, and that if there is any income available for withholding after withholding for all current support obligations, the payor shall allocate the income to past due support payments ordered in non-TANF matters and then to past due support payments ordered in TANF matters, both on a proportionate share basis; and
 - 15) that a payor who complies with an income withholding notice that is regular on its face is not subject to civil liability with respect to any individual, any agency, or any creditor of the obligor for conduct in compliance with the notice.
- j) Notice to Obligor
- When the Department serves a copy of the income withholding notice on the obligor as required under this Section, notice of the following shall be included in or with the obligor's copy of the income withholding notice:
- 1) that income withholding has commenced;
 - 2) the information provided to the payor under subsection (i) above;
 - 3) the procedures and the permissible grounds for contesting withholding commenced under subsection (d), (e) or (h) above, as applicable;
 - 4) that at any time the obligor may petition the court to:
 - A) modify, suspend or terminate the income withholding notice because of a modification, suspension or termination of the underlying order for support; or
 - B) modify the amount of income to be withheld to reflect payment in full or in part of the delinquency or arrearage by income withholding or otherwise; or
 - C) suspend the income withholding notice because of inability to deliver income withheld to the obligee due to the obligee's failure to provide a mailing address or other means of delivery; or

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- D) correct a term contained in an income withholding notice to conform to that stated in the underlying order for support for:
- the amount of current support;
 - the amount of the arrearage;
 - the periodic amount for payment of the delinquency; or
 - the periodic amount for payment of the delinquency;
- 5) that the obligor is required by law to notify the obligee, the Department, and the Clerk of the Circuit Court of any new address or payor within seven days of the change; and
- 6) that where a payor willfully discharges, disciplines, refuses to hire or otherwise penalizes an obligor because of the duty to withhold income, the obligor may file a complaint with the court against the payor, and that the court may order employment or reinstatement of or restitution to the obligor, or may impose a fine upon the payor not to exceed \$200.
- k) Penalties
- In cases where a payor willfully fails to withhold or pay over income, pursuant to a properly served income withholding notice, or otherwise fails to comply with any income withholding duties imposed by law, the Department, through its legal representatives, may request that the court:
- enter judgment and direct the enforcement thereof for the total amount that the payor willfully failed to withhold or pay over;
 - impose a penalty or fine upon the payor or invoke any other remedy allowed by law.
- l) Interstate Income Withholding
- Within the timeframes specified in subsection (c)(1) above, and pursuant to the provisions of the Uniform Interstate Family Support Act [750 ILCS 22], the Department shall engage income withholding in cases in which the obligor is receiving income from a payor located in another state.
- m) Refund of Improperly Withheld Amounts
- The Department shall promptly refund to the obligor amounts found to have been improperly withheld from the obligor's income.
- (Source: Amended by emergency rulemaking at 22 Ill. Reg. 17046, effective September 10, 1998, for a maximum of 150 days)

Section 160.88 State Case Registry**EMERGENCY**

- a) Pursuant to Section 10-27 of the Illinois Public Aid Code [305 ILCS 5/10-27], the Department shall establish an automated State Case Registry to contain records concerning child support orders for:
- all IV-D cases; and
 - all other cases entered or modified on or after October 1, 1998, and pursuant to Sections 10-10 and 10-11 of the Illinois Public

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- Aid Code [305 ILCS 5/10-10 and 10-11], and pursuant to the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5], the Non-Support of Spouse and Children Act [750 ILCS 15], the Uniform Interstate Family Support Act [750 ILCS 22] or the Illinois Parentage Act of 1984 [750 ILCS 45].
- b) The Department shall maintain the following information in the Registry for all cases described in subsection (a) of this Section:
- the names of the custodial and non-custodial parents, and of the child or children covered by the order;
 - the dates of birth of the custodial and non-custodial parents, and of the child or children covered by the order;
 - the social security numbers of the custodial and non-custodial parents and, if available, of the child or children covered by the order;
 - the residential and mailing addresses for the custodial and non-custodial parents;
 - the telephone numbers for the custodial and non-custodial parents;
 - the driver's license numbers for the custodial and non-custodial parents;
 - the name, address, and telephone number of each parent's employer or employers;
 - the case identification number;
 - the court docket number, for those cases entered or modified by the circuit court; and
 - any other information that may be required under Title IV, Part D of the Social Security Act or regulations promulgated thereunder.
- c) The Department shall maintain the following payment information in the Registry on IV-D cases:
- the amount of monthly or other periodic support owed under the order and other amounts, including arrearages, interest or late payment penalties, and fees, due or overdue under the order;
 - any amounts described in subsection (c)(1) of this Section that have been collected;
 - the distribution of the collected amounts; and
 - the amount of any lien imposed with respect to the order pursuant to Section 10-25 or Section 10-25.5 of the Public Aid Code [305 ILCS 5/10-25 and 10-25.5].
- d) When an order for support is entered or modified by the circuit court for all cases described in subsection (a) of this Section, the Department shall obtain the data identified in subsection (b) of this Section and the name of the county where the order was entered from the circuit clerk within five business days after entry of the order.
- e) When an order for support is entered or modified by the circuit court in a IV-D case, the Department shall obtain the data identified in subsection (b) of this Section and the following data from the circuit clerk within five business days after entry of the order:
- the amount of monthly or other periodic support owed under the

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

order and other amounts, including arrearages, interest or late payment penalties, and fees, due or overdue, under the order;

2) any amounts described in subsection (e)(1) of this Section that have been received by the clerk; and

3) the distribution of the amounts received by the circuit clerk.

f) When the Department enters or modifies an administrative order for support in a IV-D case under Section 10-8.1 or Section 10-11 of the Illinois Public Aid Code [305 ILCS 5/10-8.1 and 10-11], it shall obtain from the custodial parent and the non-custodial parent the information identified in subsections (b) and (c) of this Section for inclusion in the Registry.

g) The Department shall establish, update, maintain, and monitor IV-D case records in the Registry on the bases of:

1) information on administrative actions, administrative and judicial proceedings and orders relating to paternity and support;

2) information obtained from comparison with federal, state, and local sources of information;

3) information on support collections and distribution; and

4) any other relevant information.

h) Information contained in the Registry shall be subject to all federal and State confidentiality laws and regulations pursuant to 42 USC 654(26); 45 CFR 205.50 and 303.21; 42 CFR 431.Subpart F; 305 ILCS 5/11-9, 11-10, and 11-12; and Illinois Rules of Court.

i) The Department shall exchange data with other federal, state, and local agencies and other sources of information as necessary to maintain the Registry and with the agencies that administer Section IV, Part A, and Title XIX of the Social Security Act, and any other agency as may be required under Section IV, Part D of the Social Security Act, or regulations promulgated thereunder.

j) The Department shall provide to the Federal Case Registry the case information required by the Department of Health and Human Services.

(Source: Emergency added at 22 Ill. Reg. 17046, effective September 10, 1998, for a maximum of 150 days)

SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

Section 160.110 Distribution of Child Support for Former AFDC or TANF Recipients Who Continue to Receive Child Support Enforcement Services

Child support payments which are received by the Department on behalf of a former AFDC or TANF recipient who continues to receive child support enforcement services, shall be distributed in accordance with the provisions of subsections (a) through (4) of this Section ~~47~~-below.

a) Current Support: Upon cancellation of TANF or AFDC, a client's assignment of support ceases (see Section 160.20), except with respect

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

to the amount of any unpaid support obligation that has accrued under such assignment. For any month in which a client is not a TANF recipient, regardless of whether such client continues to receive child support enforcement services, the client is entitled to the amount of current support paid for that month, up to the amount of the monthly support obligation for that month. Current support payments to former AFDC or TANF recipients who do receive child support enforcement services from the Department shall be issued within 15 calendar days after initial receipt in the State.

b) Unpaid Current Support Accrued Following Cancellation: If the amount of child support collected in a month on behalf of a former AFDC or TANF recipient who receives child support enforcement services exceeds the amount of current support distributed pursuant to subsection (a) above, the client shall be paid any such amount, up to the unpaid current support obligation which has accrued for any month following cancellation of the client's AFDC or TANF case in which the client received child support enforcement services. Such payments to former AFDC or TANF recipients shall be issued within 15 calendar days after initial receipt in the State.

c) Unpaid Current Support Accrued Prior to the Family Receiving Assistance (Only in cases where the assignment of support rights under Section 160.20 of this Part was entered into on or after October 1, 1998): If the amount of child support collected in a month on behalf of a former AFDC or TANF recipient who receives child support enforcement services exceeds the amount of support distributed pursuant to subsections (a) and (b) of this Section, the client shall be paid any such amount, up to the unpaid current support obligation that has accrued for any month prior to the family having first received assistance, but only if such first month commenced on or after October 1, 1998, and only if such amount was not collected by use of federal income tax refund offset. Such payments to former TANF recipients shall be issued within 15 calendar days after initial receipt in the State.

d) Unreimbursed AFDC or TANF: If the amount of child support collected in a month on behalf of a former AFDC or TANF recipient exceeds the amount to be distributed pursuant to subsections (a) and (b) of this Section and, where applicable, subsection (c) of this Section above, the excess shall be retained by the Department to reimburse it for past unreimbursed AFDC or TANF. If the unpaid support obligation is greater than the past unreimbursed AFDC or TANF, then the maximum reimbursement amount is the amount of unreimbursed AFDC or TANF the Department has provided. If the past unreimbursed AFDC or TANF is greater than the unpaid support obligation, then the maximum reimbursement amount is the amount of the unpaid support obligation, unless amounts are collected which represent the required support obligation for periods prior to the first month in which the former AFDC or TANF recipient received AFDC or TANF, and that first month of receipt of AFDC or TANF occurred prior to October 1, 1998, or the

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

amounts are collected by use of offset of federal income tax refunds, in which case such amounts will be retained by the Department to reimburse the difference between such support obligation and such past unreimbursed AFDC or TANF.

e) Past Excess: If the amount of child support collected in a month on behalf of a former AFDC or TANF recipient exceeds the amount to be distributed pursuant to subsections (a), (b), and (c), and (d) of this Section above, the excess, up to the amount of the unpaid support obligation, including the unpaid obligation for months prior to the first month in which the former AFDC or TANF recipient received AFDC or TANF, shall be paid to the client. Such payments to former AFDC or TANF recipients shall be issued within 15 calendar days after initial receipt in the State.

f) Amounts In Excess of the Child Support Obligation: If the amount of child support collected in a month on behalf of a former AFDC or TANF recipient who continues to receive child support enforcement services exceeds the amount to be distributed pursuant to subsections (a), (b), (c), and (d), and (e) of this Section above, the excess shall be refunded to the responsible relative.

g) Identification of Child Support Payment: Any support payment issued by the Department to a former AFDC or TANF recipient under this Section shall be identified on its face as being a child support payment.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 17045, effective September 10, 1998, for a maximum of 150 days)

Section 160.130 Distribution of Intercepted Federal Income Tax Refunds and Other State Payments

The Department shall as promptly as possible apply collections it receives as a result of intercept of federal State and Federal income tax refunds and other State payments under Section 160.70 only against the past-due support amount specified in the advance notice provided the responsible relative (see Section 160.70(c)(3)).

a) Federal income tax refunds shall be applied first to satisfy any IV-D AFDC, IV-D TANF or IV-E foster care assigned past-due support and then to satisfy any IV-D non-TANF past-due support.

b) State income tax refunds and other State payments shall be applied to satisfy any active IV-B TANF and IV-B foster care assigned past-due support, or first to satisfy active IV-B non-TANF past-due support and then to satisfy any IV-B APDC, IV-B TANF and IV-B foster care assigned past-due support.

b)c) The Department shall send payments made to a IV-D client or DCFS as a result of the intercept of federal Federal or State income tax refunds and other State payments within 30 calendar days after initial receipt by the Department, except as described in subsections (c) and (d) of this Section subsection (d) below.

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

c) When a responsible relative initiates the review process under Section 160.70(c)(3)(C) between the date of the tax refund intercept and the date the Department disburses the intercepted funds or the 30th calendar day after the Department's receipt of such funds, whichever first occurs, the Department shall send any funds determined to be due the IV-D client or DCFS within 15 calendar days after the review process concludes.

d) If the Department is notified by the federal Office of Child Support Enforcement that an intercept to satisfy IV-D non-TANF past-due support is being made from a refund based on a joint return, the Department may delay distribution of the federal tax refund intercept until it is notified that the unobligated spouse's proper share of the refund has been paid or for a period not to exceed 6 months from notification of the intercept, whichever first occurs.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 17045, effective September 10, 1998, for a maximum of 150 days)

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Practice in Administrative Hearings

2) Code Citation: 89 Ill. Adm. Code 104

3) Section Numbers: Emergency Action:

104.100 Amendment

104.101 Amendment

104.102 Amendment

104.105 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 90-790

5) Effective Date: September 10, 1998

6) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable

7) Date Filed with the Index Department: September 10, 1998

8) A copy of the emergency rule, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.

9) Reason for Emergency: This emergency rulemaking is being filed pursuant to Public Act 90-790 and is necessary to implement changes in the Department's child support and administrative hearing provisions concerning administrative paternity and child support cases and evidentiary standards for reviewing petitions for relief from administrative paternity orders. Immediate implementation of these amendments is necessary to augment the effectiveness of child support enforcement in Illinois and assure compliance with legislative changes.

10) Complete Description of the Subjects and Issues Involved: These emergency amendments to the Department's administrative rules concerning hearing procedures related to child support enforcement are required for the implementation of program changes pursuant to Public Act 90-790.

The emergency changes to Sections 104.100, 104.101 and 104.102 will provide parents (IV-D clients) with appeal rights concerning administrative paternity and support orders, thereby allowing the right to request relief and the same procedural safeguards that are currently provided non-custodial parents.

Section 104.105 is being revised to clarify the evidentiary standards for reviewing petitions for relief from administrative paternity orders. The emergency provisions specify that a successful petitioner must prove a meritorious defense and provide clear and convincing evidence. These

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

emergency changes are intended to more closely track relief available from final judgments in civil judicial cases. The relief allowed by these changes will be available only to the extent permitted under Section 2-1401 of the Civil Practice Law.

These emergency changes regarding administrative support hearings are expected to result in some increase in expenditures due to an increased number of hearings to appeal administrative paternity and support decisions, but the actual budgetary impact cannot be determined at this time.

11) Are there any other proposed amendments pending on this Part? No

12) Statement of Statewide Policy Objectives: These emergency amendments do not affect units of local government.

13) Information and questions regarding these Emergency Amendments shall be directed to:

Joanne Jones

Bureau of Rules and Regulations
Illinois Department of Public Aid
201 South Grand Avenue East
Third Floor
Springfield, Illinois 62763
(217) 524-0081

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER a: GENERAL PROVISIONS

PART 104

PRACTICE IN ADMINISTRATIVE HEARINGS

SUBPART A: ASSISTANCE APPEAL

Section

104.1 Assistance Appeals
104.10 Initiation of Appeal Process
104.11 Pre-Appeal Review
104.12 Notice of Hearing
104.20 Conduct of Hearings
104.21 Representation
104.22 Appellant Participation in Hearing
104.23 Evidentiary Requirements
104.30 Subpoenas
104.35 Amendment of Appeal
104.40 Consolidation of Appeals
104.45 Postponement or Continuation of Hearings
104.50 Withdrawal of Appeal
104.55 Closing of Hearing Record
104.60 Dismissal of Appeal
104.70 Final Administrative Decision
104.80 Public Aid Committee

SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

Section

104.100 EMERGENCY Support Order, Responsible Relative and Joint Payee Petitions
104.101 Petition for Hearing
104.102 Conduct of Administrative Support Hearings
104.103 EMERGENCY Conduct of Hearings to Contest the Determination of Past-Due Support or of Share of Jointly-Owned Funds
104.104 Conduct of Other Hearings
104.105 Conduct of Hearings on Petitions for Release from Administrative Paternity Orders
EMERGENCY

SUBPART C: MEDICAL VENDOR HEARINGS

Section

104.200 Applicability
104.202 Definitions

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

104.204 Notice of Denial of An Application
104.206 Notice of Intent to Recover Money
104.207 Notice of Contested Paternity Hearing
104.208 Notice of Intent to Terminate, Suspend or Not Renew Provider Agreement
104.209 Notice of Intent to Certify Past-Due Support Owed by a Responsible Relative to, or Failure to Comply with a Subpoena or Warrant from, a State Licensing Agency and to Take Disciplinary Action
104.210 Right to Hearing
104.211 Notice of Termination or Suspension Pursuant to Exclusion by the Department of Health and Human Services
104.212 Prior Factual Determinations
104.213 Demand for Judicial Determination of the Existence of the Father and Child Relationship
104.215 Notice of Formal Conference
104.216 Formal Conference on Recovery of Money
104.217 Purpose of Formal Conference
104.220 Notice of Hearing
104.221 Issues at Hearings
104.225 Legal Counsel
104.226 Appearance of Attorney or Other Representative
104.230 Notice, Service and Proof of Service
104.231 Form of Papers
104.235 Discovery
104.240 Conduct of Hearings
104.241 Amendments
104.242 Motions
104.243 Subpoenas
104.244 Burden of Proof
104.245 Witness at Hearings
104.246 Evidence at Hearings
104.247 Cross-Examination
104.248 Disqualification of Hearing Officer
104.249 Genetic Testing in Contested Paternity Hearings
104.250 Official Notice
104.255 Computer Generated Documents
104.260 Recommendation of Peer Review Committee
104.260 Time Limits for Hearings
104.270 Continuances and Extensions
104.271 Withholding of Payments During Pendency of Proceedings
104.272 Continuation of Payments During Pendency of Proceedings
104.273 Denial of Payments for Services During Pendency of Proceedings
104.274 Denial of Payments for Services During Pendency of Proceedings
104.280 Record of Hearings
104.285 Failure to Appear or Proceed
104.290 Recommended Decision
104.295 Director's Decision

SUBPART D: RULES FOR JOINT DEPARTMENT ACTIONS AGAINST

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

SKILLED NURSING FACILITIES AND INTERMEDIATE CARE
FACILITIES PARTICIPATING IN THE MEDICAID PROGRAM

Section 104.300 Authority
104.302 Definitions
104.304 Department Actions Against Nursing Homes Facilities
104.310 Certification
104.320 Joint Administrative Hearing
104.330 Facilities Certified Under Both Medicare and Medicaid

SUBPART E: FOOD STAMP ADMINISTRATIVE DISQUALIFICATION HEARINGS

104.400 Suspected Intentional Violation of the Program
104.410 Advance Notice of Administrative Disqualification Hearing
104.420 Postponement of Hearing
104.430 Administrative Disqualification Hearing Procedures
104.440 Failure to Appear
104.450 Participation While Awaiting a Hearing
104.460 Consolidation of Administrative Disqualification Hearing with Fair Hearing

104.470 Administrative Disqualification Hearing Decision and Notice of Decision
104.480 Appeal Procedure

SUBPART F: INCORPORATION BY REFERENCE

Section 104.800 Incorporation by Reference

AUTHORITY: Implementing Sections 11-8 through 11-8.7, 12-4.9 and 12-4.25 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-8 through 11-8.7, 12-4.9, 12-4.25 and 12-13].

SOURCE: Filed and effective December 30, 1977; emergency rule at 2 Ill. Reg. 11, p. 151, effective March 9, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 10, effective May 26, 1978; amended at 2 Ill. Reg. 33, p. 57, effective August 17, 1978; peremptory amendment at 3 Ill. Reg. 11, p. 38, effective March 1, 1979; amended at 4 Ill. Reg. 21, p. 80, effective May 8, 1980; peremptory amendment at 5 Ill. Reg. 1197, effective January 23, 1981; amended at 5 Ill. Reg. 10753, effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 8 Ill. Reg. 5274, effective April 9, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 16979; amended at 8 Ill. Reg. 18114, effective September 21, 1984; amended at 10 Ill. Reg. 10129, effective June 1, 1986; amended at 11 Ill. Reg. 9213, effective April 30, 1987; amended at 12 Ill. Reg. 9142, effective May 16, 1988; amended at 13 Ill. Reg. 3944, effective March 10, 1989; amended at 13 Ill. Reg. 17013, effective October 16, 1989;

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

amended at 14 Ill. Reg. 18836, effective November 9, 1990; amended at 15 Ill. Reg. 5320, effective April 1, 1991; amended at 15 Ill. Reg. 6557, effective April 30, 1991; amended at 16 Ill. Reg. 12903, effective August 15, 1992; amended at 16 Ill. Reg. 16632, effective October 23, 1992; amended at 16 Ill. Reg. 18834, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 659, effective January 7, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 7025, effective April 30, 1993; amended at 18 Ill. Reg. 11260, effective July 1, 1994; amended at 19 Ill. Reg. 1321, effective January 30, 1995; emergency amendment at 19 Ill. Reg. 10268, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 15521, effective October 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15711, effective November 6, 1995; amended at 20 Ill. Reg. 1229, effective December 29, 1995; amended at 20 Ill. Reg. 5699, effective March 28, 1996; amended at 20 Ill. Reg. 14891, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 8671, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9306, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13648, effective October 1, 1997; amended at 21 Ill. Reg. 14877, effective November 7, 1997; emergency amendment at 22 Ill. Reg. 17113, effective September 10, 1998, for a maximum of 150 days.

SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

Section 104.100 Support Order, Responsible Relative and Joint Payee Petitions
EMERGENCY

Sections 104.101 through 104.104 apply to all petitions of responsible relatives and clients for release from or modification of Administrative Support Orders and to all petitions of responsible relatives 7-or to contest determinations of the amount of past-due support or of the share of jointly-owned funds (see 89 Ill. Adm. Code 160.70), or to contest withholding, or to modify, suspend, terminate, or correct terms contained in administrative income withholding notices (see 89 Ill. Adm. Code 160.60(d)(6)).

(Source: Emergency amendment at 22 Ill. Reg. 17113, effective September 10, 1998, for a maximum of 150 days; 17113

Section 104.101 Petition for Hearing
EMERGENCY

a) Any client or responsible relative aggrieved by an administrative support order entered, or any responsible relative aggrieved by a determination of past-due support or determination of the share of jointly-owned funds made by the Department may petition for a hearing for release from or modification of the order or to contest the determination.

b) The petition under subsection (a) above shall be filed within 30 days after the date of mailing of such order or determination. The day immediately subsequent to the mailing of the order or

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

determination shall be considered as the first day; and the day such petition is received by the Department shall be considered as the last day in computing the 30 day appeal period.

- c) Any responsible relative in a case with an administrative support order may petition the Department for a hearing to contest withholding, or to correct a term contained in an income withholding notice, or to modify, suspend or terminate an income withholding notice for the reasons provided in 89 Ill. Adm. Code 160.75(d), (e) and (j).
- d) The petition to modify, suspend, terminate, or correct a term contained in an income withholding notice may be filed at any time and the petition to contest withholding shall be filed within 20 days after the date of service of the copy of the income withholding notice upon the responsible relative. The day immediately subsequent to the day of service of the copy of the notice shall be considered as the first day; and the day such petition is received by the Department shall be considered as the last day in computing the 20 day appeal period.
- e) The Department shall, upon receipt of a petition, provide for a hearing to be held, except as provided in Section 104.103(b).

(Source: Emergency amendment at 22 Ill. Reg. 17113, effective September 10, 1998, for a maximum of 150 days)

Section 104.102 Conduct of Administrative Support Hearings

EMERGENCY

a) Hearing De Novo

- 1) The hearing shall be de novo and the Department's determination of liability or non-liability pursuant thereto shall be independent of the prior determination of liability.
- 2) In Title IV-D cases, the hearing shall only consider such matters as are relevant for a determination of the duty and financial ability to support under 89 Ill. Adm. Code 160.60 and 160.65.

b) Rules Governing Hearing

- 1) Hearings on petitions for release from or modification of the Administrative Support Order shall be governed by Sections 104.10 through 104.70, except that "appellant" as used within this Part these-Rules shall refer to the responsible relative or Title IV-D client who petitions and except as set out in subsection (b)(2) below.
- 2) In Title IV-D cases, the following additional rules shall govern:
 - A) A request for appeal must be filed with the regional or central office of the Bureau of Child Support Enforcement at the address furnished in the administrative support order.
 - B) For purposes of notice and of presenting evidence, the Title IV-D client and the responsible relative shall be considered an interested parties party.

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

- C) Hearings shall be conducted by a hearing officer authorized by the Director of the Department to consider issues under appeal by Title IV-D clients and responsible relatives.
- D) In the event of cross appeals, if the client is an Illinois resident, the hearing shall be held in the client's county of residence. Otherwise, if the appellant is an Illinois resident, the hearing shall be conducted in the appellant's county of residence. If the appellant is not an Illinois resident but the client is an Illinois resident, the hearing shall be conducted in the client's county of residence. If neither the appellant nor the client is an Illinois resident, the hearing shall be conducted in the appropriate regional office of the Division of Child Support Enforcement. In any event, the hearing may be conducted in a county acceptable to the appellant, the client, and the Division of Child Support Enforcement. If a party is outside the State, he may, in a manner consistent with Section 11-8.2 of the Public Aid Code [305 ILCS 5/11-8.2], present his case through depositions and witnesses. In addition, a party may request to participate in the hearing by telephone, at his own expense.
- E) Documents certified by a clerk of court or a Title IV-D agency shall be admitted into evidence without further proof. (Refer to Section 104.23 for admission of other evidence.)
- F) In addition to the appellant, the Bureau of Child Support Enforcement or Title IV-D client may request and receive a continuance for good cause shown (for example er-g, illness or other circumstance which prevent a party from continuing in the normal course of the hearing).
- G) A decision on appeal shall be given to the IV-D client and responsible relative within 60 days after of the Department's receipt of the appeal unless additional time is required for a proper decision due to the complexity or unavailability of relevant evidence, and the IV-D client and responsible relative will be notified of the length of the extension.
- c) A hearing to vacate registration or to modify the administrative income withholding notice of the Department shall consider only matters which would be available to the responsible relative as defenses in a civil action in Illinois to enforce a foreign money judgment (such as, payment, partial payment, or identification of the party against whom the judgment was entered). If the responsible relative shows the Department that an appeal from the registered support order is pending or will be taken in the court or administrative body of the jurisdiction which originally entered the order, or that a stay of execution has been granted, the Department shall stay enforcement of the order until the appeal is concluded, the

CAPITAL DEVELOPMENT BOARD

NOTICE OF MODIFICATION TO EMERGENCY RULES IN RESPONSE TO AN OBJECTION OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES

1) Heading of the Part: Procurement Practices

2) Code Citation: 44 Ill. Adm. Code 910

3) Section Numbers:

910.150

4) Notice of Emergency Rules published in the Illinois Register: July 31, 1998; 22 Ill. Reg. 14333; modified at 22 Ill. Reg. 17113.

5) JCAR Statement of Objection to Emergency Rules published in the Illinois Register: The statement of Objection was published at 22 Ill. Reg. 16035; September 4, 1998.

6) Date Agency submitted this modification to JCAR for approval: September 10, 1998.

7) Summary of Action Taken by the Agency: CDB is amending the Emergency Rule to clarify that determinations of germaneness, prior approval in writing, and publication of all change orders shall be done in accordance with Code provisions.

The full text of the Section(s) of the emergency rules being modified begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

time for appeal has expired, or the stay order is vacated.

(Source: Emergency amendment at 22 Ill. Reg. 17113, effective September 10, 1998 for a maximum of 150 days)

Section 104.105 Conduct of Hearings on Petitions for Release from Administrative Paternity Orders
EMERGENCY

a) Hearings on petitions filed under authority of 89 Ill. Adm. Code 160.61(e) for release from an administrative paternity order entered under 89 Ill. Adm. Code 160.61(b) or (c) subsection--(b)--of--Section 160-61 shall be governed by Section 104.102, except that subsections (a) and (c) shall not apply, and the hearing shall consider only the issues ~~issue~~ of whether there is a prima facie showing that the petition is timely filed, whether the Department's policies and procedures were followed in entering the administrative paternity order, whether the petitioner has a meritorious defense to entry of the order and whether the petitioner exercised due diligence in presenting that defense to the Department.

b) In order to prevail on a timely filed petition for release from entry of an administrative paternity order, the petitioner must prove a meritorious defense and exercise of due diligence by clear and convincing evidence.

c) Relief of under this Section shall be available only to the extent allowed under Section 2-1401 of the Civil Practice Law [735 ILCS 5/2-1401].

(Source: Emergency amendment at 22 Ill. Reg. 17113, effective September 10, 1998 for a maximum of 150 days)

CAPITAL DEVELOPMENT BOARD

NOTICE OF MODIFICATION TO EMERGENCY RULES IN RESPONSE TO AN OBJECTION OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULESTITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND
PROPERTY MANAGEMENTSUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XII: CAPITAL DEVELOPMENT BOARD

PART 910

PROCUREMENT PRACTICES

Section

910.90 Authority

EMERGENCY

910.100 Definitions

EMERGENCY

910.110 Procurement Code

EMERGENCY

910.120 Contracts

EMERGENCY

910.130 Bidding

EMERGENCY

910.140 Protests

EMERGENCY

910.150 Alternative Procurement Methods

EMERGENCY

910.160 Alternative Dispute Resolution

EMERGENCY

910.170 Use of Department of Central Management Services

EMERGENCY

910.180 Retention Trust

EMERGENCY

910.190 Change Orders or Modifications

EMERGENCY

910.200 Use of Funds

EMERGENCY

910.210 Suspension and Debarment

EMERGENCY

AUTHORITY: Implementing and authorized by Sections 9.06 and 16 of the Capital Development Board Act [20 ILCS 3105/9.06 and 16] and the Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted at 2 Ill. Reg. 30, p. 140, effective July 27, 1978; amended at 4 Ill. Reg. 9, p. 233, effective February 14, 1980; amended at 5 Ill. Reg. 1890, effective February 17, 1981; amended and codified at 8 Ill. Reg. 20324, effective October 1, 1984; amended at 9 Ill. Reg. 17332, effective October 29, 1985; amended at 12 Ill. Reg. 9864, effective May 27, 1988; amended at 13 Ill. Reg. 8403, effective May 22, 1989; amended at 22 Ill. Reg. 1169, effective

CAPITAL DEVELOPMENT BOARD

NOTICE OF MODIFICATION TO EMERGENCY RULES IN RESPONSE TO AN OBJECTION OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES

January 1, 1998; old Part repealed by emergency rulemaking at 22 Ill. Reg. 14329, effective July 16, 1998, for a maximum of 150 days; new Part adopted by emergency rulemaking at 22 Ill. Reg. 14333, effective July 16, 1998, for a maximum of 150 days; emergency rules modified in response to Joint Committee on Administrative Rules Objection at 22 Ill. Reg. 17123.

Section 910.150 Alternative Procurement Methods
EMERGENCY

In lieu of competitive sealed bidding, CDB shall procure goods and services by the following or as otherwise allowed by statute or rule:

a) Small Contracts

Individual contracts for supplies or services from any one source that do not exceed \$10,000 may be made without notice, competition or use of other method of procurement prescribed in the Code or this Part. Contracts for professional and artistic services that do not exceed \$20,000 for a nonrenewable term will be procured in accordance with this Section.

1) Construction contracts, construction supply contracts, construction-related service contracts and change orders made thereto that do not exceed \$30,000 may be procured without notice, competition or use of any other method of procurement prescribed in the Code or this Part.

2) Section 20-20(c) of the Code authorizes the establishment of a threshold higher than the small purchase limit established in the Code. The threshold established determines the level above which a method of procurement prescribed in the Code and this Part will be used. Additionally, Section 30-35 of the Code provides that a construction contract change order may cause the obligation or expenditure of funds in excess of the original contract price provided that the subject of the change order is germane to the original contract. Section 30-35 of the Code further establishes the manner in which the amount of additional expenditure or obligation will be determined and authorized by the Board. In order to give full effect to the intention of Section 20-20(c) and the provisions of Section 30-35 of the Code, CDB will approve construction contract change orders and the obligation or expenditure of additional funds in accordance with the following requirements and thresholds:

A) A construction contract change order that causes the obligation or expenditure of funds ~~more than~~ \$30,000 in excess of the contract price will not be authorized unless the object of the change order is germane to the original contract.

B) Determination of germaneness and the amount of additional expenditure or obligation thresholds will be determined in accordance with this Part and Section 30-35 of the Code.

CAPITAL DEVELOPMENT BOARD

NOTICE OF MODIFICATION TO EMERGENCY RULES IN RESPONSE TO AN OBJECTION OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES

- C) All change orders shall be in writing. Prior-written approval will be made by the Board if the contemplated construction change order will cause an expenditure or obligation of funds of more than \$30,000 in excess of the contract price. CDB's written approval will state the reasons for the additional obligation or expenditure and the basis for the germaneness determination.
- D) For purposes of determining the scope of the change order and the value thereof that is subject to the requirements of this Section, the Board will consider the total net value of all added and deducted work functions related to the object of the change order and the work of the contract to be affected.
- E) Notice of approved construction contract change orders in excess of \$30,000 will be published in the Capital Development Board Procurement Bulletin.
- 2) Estimated needs shall not be divided in any manner to avoid the use of an established method of procurement. (See Section 20-20(a) of the Code.)
- b) Emergency Contracts
- 1) A contract may be procured without the use of any other method of procurement prescribed in the Code or this Part when there exists a threat to public health or safety, or when an immediate contract is needed to repair State property in order to prevent or minimize loss or damage to State property, or to prevent or minimize serious disruption in State services, including but not limited to completion of a defaulted contract, or to ensure the integrity of State records. (See Section 20-30(a) of the Code.)
- 2) For purposes of this Section, State property includes all property both real and personal. State records includes all records regardless of the form of storage. State services include, but are not limited to, all activities committed by law to the jurisdiction or responsibility of the Board, whether provided directly or indirectly by means of contract or intergovernmental agreement. Change orders to existing contracts that are necessary to complete the contract, and that can best be accomplished by the contract holder, may be procured under this Section.
- 3) The Board will employ such competition as is practical under the emergency circumstances to abate the emergency situation, including the use of existing contracts.
- 4) Section 20-30(a) of the Code requires a written description of the basis for the emergency and reasons for the selection of the particular contractor to be included in the contract file. Section 20-30 of the Code further requires an affidavit to be filed with the Auditor General setting forth the amount expended, the name of the contractor and the basis for the emergency. For

CAPITAL DEVELOPMENT BOARD

NOTICE OF MODIFICATION TO EMERGENCY RULES IN RESPONSE TO AN OBJECTION OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES

- purposes of Board emergency procurements, the Code-required affidavits will serve as the Code-required written descriptions retained in the contract file, and for purposes of publication notice as required by Code.
- c) Sole Source Contracts
- 1) A contract may be procured from a single source contractor without competition or use of any other method of procurement prescribed in the Code or this Part when the single source contract is the only economically feasible source capable of providing the services, including professional and artistic services, contemplated or the material or product to be supplied. (See Section 20-25 of the Code.)
- 2) A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. Examples of circumstances that could necessitate sole source procurement include but are not limited to:
- A) when the compatibility of equipment, accessories, replacement parts, or service is a primary consideration;
- B) when trial use, testing or the development of new technology is the object of the procurement;
- C) when a sole supplier's item is to be procured for commercial resale;
- D) when utility services are to be procured;
- E) when the surety providing a performance bond tenders a completion contractor, acceptable to the Board, to complete a defaulted contract;
- F) when the item is copyrighted or patented and the item is not available except from the holder of the copyright or patent or service area licensee; and
- G) when utility or other private property is to be relocated or otherwise adjusted by the owner to accommodate a Board project.
- 3) Change orders to existing contracts germane to the original contract that are necessary or desirable to complete the project, and that can be best accomplished by the contract holder, may be procured under this Section.
- 4) The Board shall publish notice of intent to contract on a sole source basis in the Capital Development Board Procurement Bulletin at least 14 days prior to execution of the contract. (See Section 20-25 of the Code.)
- d) Illinois Correctional Industries
- Procurement from Illinois Correctional Industries constitutes contracting between State governmental bodies, exempt from Procurement Code requirements, and shall be done in accordance with CMS rules and this Part. Such procurements may utilize an annual master contract with agreed-upon unit prices for construction services, against which

CAPITAL DEVELOPMENT BOARD

NOTICE OF MODIFICATION TO EMERGENCY RULES IN RESPONSE TO AN OBJECTION OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES

sub-orders may be placed for specific CDB projects.

- e) Art-in-Architecture Program Procurement
Works of art procured for CDB construction projects pursuant to provisions of the Capital Development Board Act [20 ILCS 3105/14] are construction procurements under the Illinois Procurement Code [Section 1-15.20] and shall be selected by the Capital Development Board and the Fine Arts Review Committee in accordance with the requirements of the Code, the Capital Development Board Act, and CDB rules, and with written procedures established by the Art-in-Architecture Program.

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF CORRECTIONS TO NOTICE ONLY

- 1) Heading of the Part: Illinois Dental Practice Act

- 2) Code Citation: 68 Ill. Adm. Code 1220

- 3) The Notice of Adopted Amendments being corrected appeared at 22 Ill. Reg. 14880, dated August 14, 1998.

- 4) The information being corrected is as follows:

Under "Difference(s) between proposal and final version", there should have been mention of a typographical error in the "Notice of Proposed Amendments" that had stated in Section 1220.520(h) that dentists intending to perform dentistry while a licensed nurse anesthetist administers deep sedation or general anesthesia does "not" need to hold Permit B; this was corrected on Second Notice and the Adopted Amendments make it clear that Permit B is required.

DEPARTMENT OF AGRICULTURE
NOTICE OF PUBLIC HEARING

- 1) Heading of the Part: Animal Diagnostic Laboratory Act
- 2) Code Citation: 8 Ill. Adm. Code 110
- 3) Register Citation to Notice of Proposed Rules:

22 Ill. Reg. 15783; September 4, 1998

- 4) Date, Time and Location of Public Hearing:

Wednesday, October 14, 1998, 10:00 a.m.
Illinois Department of Agriculture
Agriculture Building, Room 66
State Fairgrounds, 8th & Sangamon
Springfield, IL 62794-9281

- 5) Other Pertinent Information:

Individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should submit written comments to:

Department of Agriculture
Attention: Debbie Wakefield
P.O. Box 19281
Springfield, IL 62794-9281
217/785-5713; FAX #: 217/785-4505.

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 8, 1998. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF AGRICULTURE
NOTICE OF PUBLIC HEARING

- 1) Heading of the Part: Bovine Brucellosis
- 2) Code Citation: 8 Ill. Adm. Code 75
- 3) Register Citation to Notice of Proposed Rules: 22 Ill. Reg. 15794; September 4, 1998

- 4) Date, Time and Location of Public Hearing:

Wednesday, October 14, 1998, 10:00 a.m.
Illinois Department of Agriculture
Agriculture Building, Room 66
State Fairgrounds, 8th & Sangamon
Springfield, IL 62794-9281

- 5) Other Pertinent Information:

Individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should submit written comments to:

Department of Agriculture
Attention: Debbie Wakefield
P.O. Box 19281
Springfield, IL 62794-9281
217/785-5713; FAX #: 217/785-4505.

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 8, 1998. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING

- 1) Heading of the Part: Definitions
- 2) Code Citation: 8 Ill. Adm. Code 20
- 3) Register Citation to Notice of Proposed Rules: 22 Ill. Reg. 15801; September 4, 1998

4) Date, Time and Location of Public Hearing:

Wednesday, October 14, 1998, 10:00 a.m.
 Illinois Department of Agriculture
 Agriculture Building, Room 66
 State Fairgrounds, 8th & Sangamon
 Springfield, IL 62794-9281

5) Other Pertinent Information:

Individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should submit written comments to:

Department of Agriculture
 Attention: Debbie Wakefield
 P.O. Box 19281
 Springfield, IL 62794-9281
 217/785-5713; FAX #: 217/785-4505.

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 8, 1998. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING

- 1) Heading of the Part: Diseased Animals
- 2) Code Citation: 8 Ill. Adm. Code 85
- 3) Register Citation to Notice of Proposed Rules:

22 Ill. Reg. 15808; September 4, 1998

4) Date, Time and Location of Public Hearing:

Wednesday, October 14, 1998, 10:00 a.m.
 Illinois Department of Agriculture
 Agriculture Building, Room 66
 State Fairgrounds, 8th & Sangamon
 Springfield, IL 62794-9281

5) Other Pertinent Information:

Individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should submit written comments to:

Department of Agriculture
 Attention: Debbie Wakefield
 P.O. Box 19281
 Springfield, IL 62794-9281
 217/785-5713; FAX #: 217/785-4505.

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 8, 1998. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING

- 1) Heading of the Part: Feeder Swine Dealer Licensing
- 2) Code Citation: 68 Ill. Adm. Code 590
- 3) Register Citation to Notice of Proposed Rules: 22 Ill. Reg. 15817; September 4, 1998
- 4) Date, Time and Location of Public Hearing:
Wednesday, October 14, 1998, 10:00 a.m.
Illinois Department of Agriculture
Agriculture Building, Room 66
State Fairgrounds, 8th & Sangamon
Springfield, IL 62794-9281
- 5) Other Pertinent Information:

Individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should submit written comments to:

Department of Agriculture
Attention: Debbie Wakefield
P.O. Box 19281
Springfield, IL 62794-9281
217/785-5713; FAX #: 217/785-4505

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 8, 1998. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING

- 1) Heading of the Part: Hatcheries, Poultry Flocks, and Produce Thereof
- 2) Code Citation: 8 Ill. Adm. Code 55
- 3) Register Citation to Notice of Proposed Rules:
22 Ill. Reg. 15820; September 4, 1998
- 4) Date, Time and Location of Public Hearing:
Wednesday, October 14, 1998, 10:00 a.m.
Illinois Department of Agriculture
Agriculture Building, Room 66
State Fairgrounds, 8th & Sangamon
Springfield, IL 62794-9281
- 5) Other Pertinent Information:

Individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should submit written comments to:

Department of Agriculture
Attention: Debbie Wakefield
P.O. Box 19281
Springfield, IL 62794-9281
217/785-5713; FAX #: 217/785-4505.

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 8, 1998. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING

- 1) Heading of the Part: Illinois Bovidae and Cervidae Tuberculosis Eradication Act
- 2) Code Citation: 8 Ill. Adm. Code 80
- 3) Register Citation to Notice of Proposed Rules: 22 Ill. Reg. 15825; September 4, 1998
- 4) Date, Time and Location of Public Hearing:
Wednesday, October 14, 1998, 10:00 a.m.
Illinois Department of Agriculture
Agriculture Building, Room 66
State Fairgrounds, 8th & Sangamon
Springfield, IL 62794-9281
- 5) Other Pertinent Information:

Individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should submit written comments to:

Department of Agriculture
Attention: Debbie Wakefield
P.O. Box 19281
Springfield, IL 62794-9281
217/785-5713; FAX #: 217/785-4505.

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 8, 1998. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING

- 1) Heading of the Part: Illinois Pseudorabies Control Act
- 2) Code Citation: 8 Ill. Adm. Code 115
- 3) Register Citation to Notice of Proposed Rules:
22 Ill. Reg. 15831; September 4, 1998
- 4) Date, Time and Location of Public Hearing:
Wednesday, October 14, 1998, 10:00 a.m.
Illinois Department of Agriculture
Agriculture Building, Room 66
State Fairgrounds, 8th & Sangamon
Springfield, IL 62794-9281
- 5) Other Pertinent Information:

Individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should submit written comments to:

Department of Agriculture
Attention: Debbie Wakefield
P.O. Box 19281
Springfield, IL 62794-9281
217/785-5713; FAX #: 217/785-4505.

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 8, 1998. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING

1) Heading of the Part: Livestock Auction Markets

2) Code Citation: 8 Ill. Adm. Code 40

3) Register Citation to Notice of Proposed Rules: 22 Ill. Reg. 15838; September 4, 1998

4) Date, Time and Location of Public Hearing:

Wednesday, October 14, 1998, 10:00 a.m.
Illinois Department of Agriculture
Agriculture Building, Room 66
State Fairgrounds, 8th & Sangamon
Springfield, IL 62794-9281

5) Other Pertinent Information: Individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should submit written comments to:

Department of Agriculture
Attention: Debbie Wakefield
P.O. Box 19281
Springfield, IL 62794-9281
217/785-5713; FAX #: 217/785-4505.

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 8, 1998. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING

1) Heading of the Part: Livestock Dealer Licensing

2) Code Citation: 68 Ill. Adm. Code 610

3) Register Citation to Notice of Proposed Rules:

22 Ill. Reg. 15843; September 4, 1998

4) Date, Time and Location of Public Hearing:

Wednesday, October 14, 1998, 10:00 a.m.
Illinois Department of Agriculture
Agriculture Building, Room 66
State Fairgrounds, 8th & Sangamon
Springfield, IL 62794-9281

5) Other Pertinent Information:

Individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should submit written comments to:

Department of Agriculture
Attention: Debbie Wakefield
P.O. Box 19281
Springfield, IL 62794-9281
217/785-5713; FAX #: 217/785-4505.

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 8, 1998. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING

- 1) Heading of the Part: Swine Brucellosis
- 2) Code Citation: 8 Ill. Adm. Code 100
- 3) Register Citation to Notice of Proposed Rules: 22 Ill. Reg. 15847; September 4, 1998
- 4) Date, Time and Location of Public Hearing:
Wednesday, October 14, 1998, 10:00 a.m.
Illinois Department of Agriculture
Agriculture Building, Room 66
State Fairgrounds, 8th & Sangamon
Springfield, IL 62794-9281

- 5) Other Pertinent Information: Individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should submit written comments to:

Department of Agriculture
Attention: Debbie Wakefield
P.O. Box 19281
Springfield, IL 62794-9281
217/785-5713; FAX #: 217/785-4505.

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 8, 1998. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING

- 1) Heading of the Part: Swine Disease Control and Eradication Act
- 2) Code Citation: 8 Ill. Adm. Code 105
- 3) Register Citation to Notice of Proposed Rules: 22 Ill. Reg. 15850; September 4, 1998
- 4) Date, Time and Location of Public Hearing:
Wednesday, October 14, 1998, 10:00 a.m.
Illinois Department of Agriculture
Agriculture Building, Room 66
State Fairgrounds, 8th & Sangamon
Springfield, IL 62794-9281

- 5) Other Pertinent Information:

Individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should submit written comments to:

Department of Agriculture
Attention: Debbie Wakefield
P.O. Box 19281
Springfield, IL 62794-9281
217/785-5713; FAX #: 217/785-4505.

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 8, 1998. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PUBLIC HEARING ON PROPOSED RULES

- 1) Heading of the Part: Nuisance Wildlife Control Permits

- 2) Code Citation: 17 Ill. Adm. Code 525

- 3) Register Citation to Notice of Proposed Amendments: 22 Ill. Reg. 15158; August 21, 1998

- 4) Date, Time and Location of Public Hearing:

Wednesday, October 14, 1998
1:30 p.m.
Department of Agriculture
Lincoln Room
Junior Building
Illinois State Fairgrounds
Springfield, Illinois

- 5) Other Pertinent Information: Individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should submit written comments by October 14, 1998, to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield, IL 62701-1787
Telephone: 217/782-1809
Fax: 217/524-9640

All comments received will be fully considered by the agency.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of September 8, 1998 through September 14, 1998 and have been scheduled for review by the Committee at its September 22, 1998 or October 20, 1998 meetings in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
10/23/98	Environmental Protection Agency, Procedures to be Followed in the Performance of Inspections of Motor Vehicle Emissions (35 Ill Adm Code 276)	7/24/98 22 Ill Reg 13333	9/22/98
10/22/98	Department of Children and Family Services, Employee Conflict of Interest (89 Ill Adm Code 437)	7/6/98 22 Ill Reg 11254	10/20/98
10/23/98	Environmental Protection Agency, Brownfield Redevelopment Grant Program (35 Ill Adm Code 885)	6/19/98 22 Ill Reg 10790	10/20/98
10/22/98	Department of Central Management Services, Pay Plan (80 Ill Adm Code 310)	7/17/98 22 Ill Reg 12422	10/20/98
10/25/98	Department of Professional Regulation, Dietetic and Nutrition Services Practice Act (68 Ill Adm Code 1245)	7/17/98 22 Ill Reg 12464	10/20/98

PROCLAMATIONS

98-472

MR. AND MRS. FORREST KENT FUNDERBURKE DAY (Revised)

Whereas, the institution of marriage is the foundation of our society; and Whereas, generation after generation have entered the state of matrimony and have been sustained through the physical, mental, emotional and moral support it can provide; and

Whereas, this lawful and sacred bond symbolizes a lifelong, loving commitment of sharing and caring for each other and provides for the strength of two in achieving common goals; and

Whereas, Judy Lyons and Kent Funderburke have chosen to make this commitment to one another because of the love they share and both freely agree to accept, as partners, the solemn responsibilities such a commitment requires;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim Saturday, August 29, 1998, as **MR. AND MRS. FORREST KENT FUNDERBURKE DAY** in Illinois, in recognition of the love, unity of purpose and mutual respect manifested by the exchange of vows by Judy and Kent on this memorable day.

Issued by the Governor August 24, 1998.

Filed by the Secretary of State August 28, 1998.

98-476

AMERICAN COLLEGE OF CHIROPRACTIC CONSULTANTS MONTH

Whereas, the American College of Chiropractic Consultants (A.C.C.C.), headquartered in Chicago, was formed in 1978 and ultimately incorporated as an Illinois not-for-profit corporation on July 22, 1980; and

Whereas, for 20 years the A.C.C.C. has designated, established and maintained a standard threshold of knowledge and professional competence; and

Whereas, the A.C.C.C. awards the designation of Diplomate of the American Board of Chiropractic Consultants (DABCC) to doctors nationwide who have successfully completed required postgraduate educational credits, training, experience and examinations; and

Whereas, A.C.C.C. certified practitioners are distinguished by their level of skill in medical records review, case analysis and management, and clinical/examination acumen; and

Whereas, the A.C.C.C. will celebrate its 20th Anniversary at its Annual Fall Meeting in Schaumburg, Illinois, September 17-20, 1998;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 1998 as **AMERICAN COLLEGE OF CHIROPRACTIC CONSULTANTS MONTH** in Illinois and congratulate the organization on its 20 years of service.

Issued by the Governor August 24, 1998.

Filed by the Secretary of State August 28, 1998.

98-477

CHAMBER OF COMMERCE WEEK

Whereas, chambers of commerce work with Illinois businesses, merchants, and industry to advance the civic, economic, industrial, professional, and cultural life of our state; and

Whereas, chambers of commerce have contributed to the civic and economic

life of Illinois for 160 years, since the Galena Chamber of Commerce was founded in 1838; and

Whereas, chambers of commerce encourage the growth of existing industries, services, and commercial firms and encourage new businesses and individuals to locate in Illinois, acting as a liaison with the State of Illinois, local governments, schools, and the business community; and

Whereas, this year marks the 83rd anniversary of the Illinois Association of Chamber of Commerce Executives, a career development organization for chamber of commerce professionals; and

Whereas, Illinois is the home to international chambers of commerce, the Midwestern Service Center of the U.S. Chamber of Commerce, the Illinois State Chamber of Commerce, and more than 350 local chambers of commerce;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 13-19, 1998, as **CHAMBER OF COMMERCE WEEK** in Illinois.

Issued by the Governor August 24, 1998.

Filed by the Secretary of State August 28, 1998.

98-478

NATIONAL SPINAL CORD INJURY ASSOCIATION DAY

Whereas, the National Spinal Cord Injury Association is celebrating their 50th Anniversary; and

Whereas, the root of what has become a great Association began in Illinois; and

Whereas, citizens in Illinois realize the benefit of the Association's effort to help those with spinal cord injuries to achieve their highest level of independence and personal fulfillment; and

Whereas, our citizens must learn about preventions and interventions of spinal cord injuries and accessibility laws; and

Whereas, the National Spinal Cord Injury Association will hold their annual conference in Illinois;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim August 25, 1998, as **NATIONAL SPINAL CORD INJURY ASSOCIATION DAY** in Illinois.

Issued by the Governor August 24, 1998.

Filed by the Secretary of State August 28, 1998.

98-479

DARRELL AND URSULA BECK DAY

Whereas, Darrell and Ursula Beck have committed their lives to helping others; and

Whereas, the Beck family has unselfishly given their time and money to support services and projects in the City of Decatur, Illinois, to benefit its residents; and

Whereas, Easter Seals Central Illinois is to host a Seal of Excellence Tribute Dinner for this remarkable couple who will be recognized for their contributions to many Decatur organizations; and

Whereas, the proceeds from the Tribute Dinner will provide direct services to children and adults with disabilities throughout the year who are served by Easter Seals;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 26, 1998, as **DARRELL AND URSULA BECK DAY** in Illinois.

Issued by the Governor August 25, 1998.

Filed by the Secretary of State August 28, 1998.

98-480

FIFTH MARINE DIVISION ASSOCIATION DAYS

Whereas, the First Marine Division Association will hold its 49th Annual Reunion this year; and

Whereas, the Reunion will be held in the City of Peoria in the State of Illinois; and

Whereas, Warren R. Musch, of Virginia, Illinois, will serve as the President of the Fifth Marine Division Association during this Reunion; and

Whereas, the United States Marine Corps Fifth Division has played a decisive role in the Pacific theater during World War II and in Vietnam; and

Whereas, the State of Illinois recognizes and celebrates the contributions, both past and present, of the men and women of the United States Armed Forces, including the Marine Corps;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 14-17, 1998, as **FIFTH MARINE DIVISION ASSOCIATION DAYS** in Illinois.

Issued by the Governor August 25, 1998.

Filed by the Secretary of State August 28, 1998.

98-481

JANE ADDAMS HULL HOUSE ASSOCIATION MONTH

Whereas, on September 18, 1889, Jane Addams opened the doors of Hull House on the West side of Chicago to help her immigrant neighbors build self-sufficient lives for themselves and their families; and

Whereas, under the steadfast leadership of Jane Addams, Hull House established the city's first settlement house, public playground, free art exhibits, labor unions, investigations leading to sanitation and child labor laws, and many of the ground breaking programs and legislation that improved the quality of life in Chicago; and

Whereas, Jane Addams is credited with starting the field of social work and greatly impacting the nation's social reform and peace movements, for which she was the first American woman to receive the Nobel Peace Prize; and

Whereas, today, Jane Addams Hull House Association continues to foster the personal mission of Jane Addams, who believed in neighbors helping neighbors; and

Whereas, Jane Addams Hull House Association serves thousands of children, families and seniors each year through hundreds of social service programs throughout Chicago and the suburbs; and

Whereas, Jane Addams Hull House Association will celebrate its 109th Anniversary throughout September, and will award the Jane Addams Medal to Richard Notebaert, Chairman and CEO of Ameritech, The Jane Addams Medal annually recognizes an individual for philanthropic and business contributions that represent the spirit of Jane Addams;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 1998 as **JANE ADDAMS HULL HOUSE ASSOCIATION MONTH** in Illinois in conjunction with Richard C. Notebaert's acceptance of the 1998 Jane Addams Medal.

Issued by the Governor August 25, 1998.

Filed by the Secretary of State August 28, 1998.

98-482

MINORITY ENTERPRISE DEVELOPMENT WEEK

Whereas, Minority Enterprise Development Week is an annual celebration of the contributions and achievements made by minority businesses in Illinois and throughout the United States; and

Whereas, our state's growth and prosperity depend on the full participation of all Illinois citizens; and

Whereas, it is the policy in Illinois to promote and encourage the economic development of minority owned business; as

Whereas, for the past 14 years, this state has made great advances in increasing the participation of the minority community in state business; and

Whereas, on September 15, business and professional leaders from across the region will join together at the 16th Annual Minority Enterprise Development Week awards ceremony to honor Chicago's outstanding minority business entrepreneurs throughout the state for 1998;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 14-18, 1998, as **MINORITY ENTERPRISE DEVELOPMENT WEEK**, in Illinois in recognition of the contributions and achievements of minority entrepreneurs in Chicago and throughout our state.

Issued by the Governor August 25, 1998.

Filed by the Secretary of State August 28, 1998.

98-483

5-A-DAY "TASTE A WORLD OF VARIETY" WEEK

Whereas, the prevention of cancer and heart disease are two of the most urgent health challenges of our day, with heart disease and cancer being the leading causes of death in Illinois; and

Whereas, the Illinois Department of Human Services and the Illinois Department of Public Health recommend that people should reduce their intake of fats and increase their consumption of high fiber foods, such as fruits and vegetables, to help reduce their risk of cancer and heart disease; and

Whereas, the average American eats only 3.5 servings of fruit and vegetables a day; and

Whereas, the National Cancer Institute has launched the 5-A-Day for Better Health national disease prevention and health promotion program to encourage all Americans to eat 5 or more servings of fruits and vegetables a day for better health; and

Whereas, the Illinois Department of Human Services and the Illinois Department of Public Health support the 5-A-Day goal;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 13-19, 1998, as 5-A-DAY "**TASTE A WORLD OF VARIETY**" WEEK in Illinois and encourage all citizens to take the 5-A-Day challenge to eat more fruits and vegetables.

Issued by the Governor August 27, 1998.

Filed by the Secretary of State August 28, 1998.

98-484

GUY ANDERSON DAY

Whereas, Guy Anderson worked for the Illinois Governmental Internship Program for 15 years; and

Whereas, Guy Anderson was responsible for nearly all aspects of the Illinois Governmental Internship Program; and

Whereas, Guy Anderson worked as a guidance counselor for several Springfield area schools; and

Whereas, Guy Anderson officially retired on June 18, 1998;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 5, 1998, as *GUY ANDERSON DAY* in Illinois.

Issued by the Governor August 27, 1998.

Filed by the Secretary of State August 28, 1998.

98-485

IRON OVERLOAD DISEASES AWARENESS WEEK

Whereas, one Illinois resident in 200 is estimated to carry double genes that cause the accumulation of excessive iron stores; and

Whereas, excess iron stores can result in potentially fatal diseases of the liver, the health, the sex glands, the pancreas, and the joints; and

Whereas, the Illinois carrier rate of the single hemochromatosis gene is estimated to be 26 in 200; and

Whereas, many Illinois citizens are unaware of this high incidence;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 13-19, 1998, as *IRON OVERLOAD DISEASES AWARENESS WEEK* in Illinois and urge citizens to participate in protecting their health by informing themselves of this common but under-diagnosed condition.

Issued by the Governor August 27, 1998.

Filed by the Secretary of State August 28, 1998.

98-486

AFRICAN FESTIVAL OF THE ARTS DAYS

Whereas, the African Festival of the Arts is the largest ethnic neighborhood event in the City of Chicago; and

Whereas, the African Festival of the Arts brings over 200 exhibitors from Africa, from the Caribbean, and from across the United States to Chicago; and

Whereas, the recreation of a traditional African Marketplace and cultural programming in music, literature, and demonstrations will provide entertainment to the citizens of Chicago; and

Whereas, the event will provide entertainment and recreation to over 100,000 attendees;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 4-7, 1998, as *AFRICAN FESTIVAL OF THE ARTS DAYS* in Illinois.

Issued by the Governor August 28, 1998.

Filed by the Secretary of State September 3, 1998.

98-487

LANDMINE AWARENESS DAY

Whereas, there are an estimated 110 million landmines buried in 64 countries worldwide; and

Whereas, landmines are indiscriminate killers whose life spans extend

beyond the end of armed conflict and hostilities, and lay dormant even when peace is achieved; and

Whereas, landmines kill at least 10,000 people each year and maim another 20,000 with more than 80 percent of those killed and injured being innocent civilians, mostly women and children; and

Whereas, it costs between \$3 and \$30 to produce a landmine, and between \$300 and \$1,000 to remove it; and

Whereas, landmines caused 33 percent of all U.S. casualties and 38 percent of all deaths in Vietnam and 34 percent of all U.S. casualties during the Gulf War, and every American military casualty in Bosnia has been landmine related; and

Whereas, in response to the global landmine crisis, the United Nations has called upon the international community to help rid the world of the plague, and hundreds of non-governmental organizations have joined to form the International and U.S. Campaign to Ban Landmines; and

Whereas, on May 16, 1996, President Clinton announced his support for a comprehensive ban on antipersonnel landmines; and

Whereas, in December 1997, the Canadian government hosted a conference where over 100 states signed a comprehensive treaty calling for an immediate global ban on landmines;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 23, 1998, as *LANDMINE AWARENESS DAY* in Illinois.

Issued by the Governor August 28, 1998.

Filed by the Secretary of State September 3, 1998.

98-488

SINGLE PARENTS DAY

Whereas, being a working single parent is a contradicting, yet rewarding task for the parents and child or children involved; and

Whereas, single men and women have to work a full shift at their place of employment, then prepare themselves for the next shift of work at home as single parents; and

Whereas, single parents have to go through the endless struggle of trying to be both mother and father to their child or children; and

Whereas, Mother's Day and Father's Day do not provide enough recognition for these parents;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 3, 1998, as *SINGLE PARENTS DAY* in Illinois.

Issued by the Governor August 28, 1998.

Filed by the Secretary of State September 3, 1998.

98-489

TEMPORARY HELP WEEK

Whereas, the temporary help industry is a major contributor to a strong U.S. economy; and

Whereas, the temporary help industry provides millions of people with diversified, flexible employment and job training; and

Whereas, the temporary help industry provided more than 2.5 million jobs daily in 1997; and

Whereas, the temporary help industry was responsible for a payroll that

was approximately \$37.4 billion in 1997; and

Whereas, temporary help companies provide our state's businesses with efficient, qualified people to solve temporary staff shortages; and

Whereas, this immediacy in solving staff shortages is so important that nine out of ten companies, ranging from small local businesses to major corporations, use temporary help services for their additional staffing needs; and

Whereas, the temporary help industry provides tens of thousands of full-time jobs by acting as a bridge to those jobs;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 5-11, 1998, as *TEMPORARY HELP WEEK* in Illinois.

Issued by the Governor August 31, 1998.

Filed by the Secretary of State September 3, 1998.

98-490

GOOD NEIGHBOR DAY

Whereas, Flowerwood and Home State Bank will sponsor "Good Neighbor Day" on September 2, 1998, supported by the Northwest Herald and Star, 105.5 Radio and assisted by the Greater Crystal Lake Area Chamber of Commerce and Industry; and

Whereas, in observance of "Good Neighbor Day," Flowerwood and Home State Bank will be giving away 12,000 roses in lots of one dozen; and

Whereas, as a gesture of friendship and love, Flowerwood asks that the recipients give eleven roses away to eleven different people, hopefully complete strangers, and keep one for themselves; and

Whereas, this type of community service promotes goodwill among citizens and offers an opportunity to meet new people and make new friends;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 2, 1998, as *GOOD NEIGHBOR DAY* in Illinois.

Issued by the Governor August 31, 1998.

Filed by the Secretary of State September 3, 1998.

98-491

HISPANIC ILLINOIS STATE LAW ENFORCEMENT DAY

Whereas, the Hispanic Illinois State Law Enforcement Association (HISLEA) is a nonprofit organization whose primary objective is to offer support to Hispanic law enforcement officers; and

Whereas, HISLEA works closely with other Hispanic organizations to ensure that Hispanics are treated fairly and are considered for top administrative appointments; and

Whereas, HISLEA, along with the United States Marine Corps and various other police agencies, supported the Toys for Tots campaign and worked with Mujeres Latina En Accion in Domestic Violence and Child Abuse Awareness training; and

Whereas, HISLEA grants scholarships for graduating high school students pursuing a college education in law enforcement;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 6, 1998, as *HISPANIC ILLINOIS STATE LAW ENFORCEMENT DAY* in Illinois in recognition of the efforts the association has made to advance law enforcement careers and provide service to our citizens.

Issued by the Governor August 31, 1998.

Filed by the Secretary of State September 3, 1998.

98-492

ARMENIAN YOUTH FEDERATION OLYMPICS DAY

Whereas, the Armenian Youth Federation is celebrating the 65th anniversary of its founding in 1933; and

Whereas, the Armenian Youth Federation has helped to instill tens of thousands of Armenian-American youth with pride in their ethnic heritage; and

Whereas, during its 65-year history, the Armenian Youth Federation has had chapters in Chicago, East Saint Louis, Granite City, Waukegan, and West Pullman, Illinois; and

Whereas, the Armenian Youth Federation will be holding its 65th Annual Olympics in Illinois, hosted by the Chicago "Ararat" Chapter; and Whereas, the Armenian Youth Federation Olympics is officially sanctioned by the United States Olympic Committee to use the Olympic name; and

Whereas, the Armenian Youth Federation Olympics is the oldest continuing ethnic track and field competition in the United States;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 6, 1998, as *ARMENIAN YOUTH FEDERATION OLYMPICS DAY* in Illinois.

Issued by the Governor August 31, 1998.

Filed by the Secretary of State September 3, 1998.

98-493

HARRY AND PAT MICHALSKI DAY

Whereas, Harry Lawrence Michalski met Patricia Marie Ryan at a political picnic in the summer of 1946; and

Whereas, Harry and Pat announced their engagement on Christmas Eve, December 24, 1947; and

Whereas, Harry and Pat were married on August 28, 1948, at St. Robert Bellarmine Catholic Church in Chicago; and

Whereas, Harry and Pat are the proud parents of six children: Cathy, Jim, Larry, Cindy, Carole and Tom; and

Whereas, Harry and Pat are also the proud grandparents of six grandchildren: Jennifer and Brian, children of Larry and JoAnne Michalski; Max and Henry, children of Phil and Cindy Costello; and Eric and Madelyn, children of Mike and Carole Bilbo; and

Whereas, Harry and Pat will celebrate their anniversary with family and friends on September 6, 1998, at Elmcrest Ballroom in Elmwood Park. The program will include the renewing of their marriage vows; and

Whereas, joining in the celebration will be members of their original bridal party: Shirley Tyler Denz, maid of honor, Dolores Sullivan Olafson, Elsie Ryan Fearon, junior bridesmaid, and Lynn Ryan De Simone, flower girl; and

Whereas, 1998 marks the 50th Anniversary of the marriage of Harry and Pat Michalski;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim August 28, 1998, as *HARRY AND PAT MICHALSKI DAY* in Illinois.

Issued by the Governor September 1, 1998.

Filed by the Secretary of State September 3, 1998.

98-494

ILLINOIS JUDICIAL COUNCIL DAY

Whereas, the Illinois Judicial Council membership reflects the rich ethnic diversity of our state's judicial officers; and

Whereas, many African-American judges have been given the opportunity to be elected to the bench in Cook County as a result of the signing of the judicial redistricting bill; and

Whereas, the council takes part in many charitable and philanthropic activities to assist the less fortunate individuals of our state; and

Whereas, the Illinois Judicial Council provides food and toys, maintains a library, and visits residents of an "adopted" Chicago Housing Authority building; and

Whereas, the council has demonstrated a commitment to education by operating a speakers bureau for schools, cosponsoring a high school Law Day program with the Cook County Bar Association, and by awarding scholarships to law students; and

Whereas, the Illinois Judicial Council is holding its 16th Annual Awards and Installation Banquet on October 2, 1998;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 2, 1998, as *ILLINOIS JUDICIAL COUNCIL DAY* in Illinois.

Issued by the Governor September 1, 1998.

Filed by the Secretary of State September 3, 1998.

98-495

METRA WEEK

Whereas, Metra passenger trains travel through Chicago, Illinois, and its suburbs every day; and

Whereas, Metra works directly with state and local police and fire departments to handle emergency situations; and

Whereas, Metra has implemented training programs to increase preparedness if an emergency situation arises;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 7-13, 1998, as *METRA WEEK* in Illinois.

Issued by the Governor September 1, 1998.

Filed by the Secretary of State September 3, 1998.

98-496

WYLAND'S OCEAN CHALLENGE OF AMERICA DAY

Whereas, Wyland, leading marine life artist has created the Wyland Foundation and Wyland's Ocean Challenge of America; and

Whereas, Wyland's Ocean Challenge of America has been developed to inspire young people and nurture an interest in and desire to save our ocean environments for all of the creatures who rely on them; and

Whereas, Wyland's Ocean Challenge of America will reach 67 million students from 120,000 public and private schools in all 50 states; and

Whereas, Wyland's Ocean Challenge of America will activate students ranging from kindergarten to college seniors to participate in ocean conservation through creative mediums such as song, poetry, research projects, and other forms of creative writing; and

Whereas, Wyland and his staff will visit several Illinois schools, assisting students with their projects and encouraging them in their efforts, Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 23, 1998, as *WYLAND'S OCEAN CHALLENGE OF AMERICA DAY* in Illinois.

Issued by the Governor September 1, 1998.

Filed by the Secretary of State September 3, 1998.

98-497

A DAY IN HONOR OF DR. GLASS'S SERVICE

Whereas, Dr. Herbert D. Glass has faithfully served the people of Illinois for 50 years; and

Whereas, Dr. Glass has made significant contributions to the study of Illinois' geology and mineral resources; and

Whereas, Dr. Glass has helped more than 50 graduate students and a wide range of academic and professional colleagues;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 11, 1998, as *A DAY IN HONOR OF DR. GLASS'S SERVICE* in Illinois.

Issued by the Governor September 2, 1998.

Filed by the Secretary of State September 3, 1998.

98-498

ELWOOD "WOODY" HASEMANN DAY

Whereas, Elwood "Woody" Hasemann has given 30 years of loyal service to the Association for Manufacturing Technology; and

Whereas, Elwood "Woody" Hasemann has played an integral part in making the International Manufacturing Technology Show the largest industrial show in the world; and

Whereas, Elwood "Woody" Hasemann has diligently worked to improve the exhibitions industry; and

Whereas, Elwood "Woody" Hasemann will retire on September 30th;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 8, 1998, as *ELWOOD "WOODY" HASEMANN DAY* in Illinois.

Issued by the Governor September 1, 1998.

Filed by the Secretary of State September 3, 1998.

98-499

MEXICAN INDEPENDENCE MONTH

Whereas, the Sociedad Civica Mexicana de Illinois, Inc. is a non-profit organization that seeks to perpetuate the customs and traditions of Mexican culture and promote goodwill and understanding among all citizens of Illinois; and

Whereas, the Sociedad Civica Mexicana de Illinois, Inc. has established a fund to grant \$1,000 scholarships to Latino students; and

Whereas, the Sociedad Civica Mexicana de Illinois, Inc. has sponsored the Fiestas Patrias since 1969; and

Whereas, the Honorable Heriberto Galindo, Consul General of Mexico, the official representative of Mexico in Illinois, will crown the queen of Mexican Festivities at the Aztec Banquet; and

Whereas, 1998 marks the 188th anniversary of Mexico's independence and the

29th anniversary of the Sociedad Civica Mexicana de Illinois, Inc.;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 1998 as *MEXICAN INDEPENDENCE MONTH* in Illinois.

Issued by the Governor September 2, 1998.

Filed by the Secretary of State September 3, 1998.

98-500

CHIROPRACTIC HEALTH CARE MONTH

Whereas, doctors of chiropractic throughout the United States are active in community programs targeted at improving the health of our citizens; and

Whereas, chiropractors have long stressed that exercise, good posture, and balanced nutrition are essential to proper growth, development, and health maintenance; and

Whereas, the science of chiropractic and the physicians who practice it have contributed greatly to the better health of some two million of our state's citizens; and

Whereas, the Illinois Chiropractic Society will hold its fall convention October 9-11, 1998, in Springfield;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1998 as *CHIROPRACTIC HEALTH CARE MONTH* in Illinois.

Issued by the Governor September 3, 1998.

Filed by the Secretary of State September 9, 1998.

98-501

FILIPINO FRIENDSHIP SOCIETY DAY

Whereas, the Filipino Friendship Society exists to serve the interests on Filipino-Americans in the Chicagoland area; and

Whereas, the Society has an active membership of over 1,200 families; and Whereas, the Society promotes community citizenship through its social, educational, cultural, and religious activities; and

Whereas, the Society will celebrate its 23rd year of existence in September and will install new leaders at their meeting at the Holiday Inn Select in Naperville, Illinois;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 12, 1998, as *FILIPINO FRIENDSHIP SOCIETY DAY* in Illinois.

Issued by the Governor September 3, 1998.

Filed by the Secretary of State September 9, 1998.

98-502

PET MEMORIAL DAY

Whereas, the loss of your companion animal can create an immeasurable void in your life and, understandably, in your heart; and

Whereas, the death, loss, or impending death of your companion animal can be a very difficult and deeply emotional time; and

Whereas, the significance of the human-animal bond and the emotions that come with the loss of that bond can be difficult to overcome; and

Whereas, grieving is the natural way that your mind and body adjust to a loss; and

Whereas, by sharing your feelings of grief and seeking ways to memorialize

your pets one can bring a sense of closure;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 13, 1998, as *PET MEMORIAL DAY* in Illinois.

Issued by the Governor September 3, 1998.

Filed by the Secretary of State September 9, 1998.

98-503

RESPECT LIFE WEEK

Whereas, the Preamble of the Constitution of the United States was designed for the people of this land to "secure the blessings of liberty to ourselves and our posterity;" and

Whereas, the Declaration of Independence states that we are endowed by our creator with certain inalienable rights, including the right to life; and

Whereas, the life of each person is sacred--the young and the old, the healthy and the sick, the gifted and disadvantaged; and

Whereas, the purpose of Respect Life Week is to remind the American people of the dignity of human life;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 4-11, 1998, as *RESPECT LIFE WEEK* in Illinois.

Issued by the Governor September 3, 1998.

Filed by the Secretary of State September 9, 1998.

98-504

HIGH TECHNOLOGY WEEK

Whereas, Illinois ranks third in the export of technology products and fourth in employment in high technology industries; and

Whereas, technology companies in Illinois employ over 368,000 people, one in 14 of all persons in the private sector, whose wages alone total an estimated \$17 billion annually; and

Whereas, there are over 2,000 computer companies in the greater Chicago area, lending credence to Illinois' leadership role and driving force behind the rising high technology economy in the Midwest; and

Whereas, the State of Illinois understands the value of technology entrepreneurs in our state's economy and commends KPMG Peat Marwick LLP for recognizing the contributions of these entrepreneurs by sponsoring its annual High Tech Awards ceremony, which will be held on November 23, 1998; and

Whereas, KPMG, one of the world's largest professional service firms, established the awards in 1984 to encourage high technology growth in Illinois by publicizing local entrepreneurs and their success stories to encourage other business professionals to take advantage of the countless resources available locally and to strengthen the sound business climate that already exists; and

Whereas, Illinois is recognized nationally for its renowned research institutes and universities which include Fermi National Accelerator Laboratory, Argonne National Laboratory, University of Illinois, Northwestern University, Illinois Institute of Technology, and the University of Chicago;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim November 23-28, 1998, as *HIGH TECHNOLOGY WEEK* in Illinois.

Issued by the Governor September 4, 1998.

Filed by the Secretary of State September 9, 1998.

98-505

HUNTING AND FISHING DAY

Whereas, conserving Illinois' natural and wildlife resources is one of the most important responsibilities we have to this and future generations; and
 Whereas, hunters and anglers were among the first to realize this responsibility nearly 100 years ago, when they saw firsthand how unregulated exploitation had caused disastrous declines in wildlife populations; and
 Whereas, they also suggested and supported laws to establish special hunting and fishing license fees and special taxes on their equipment to pay for resource conservation programs; and

Whereas, hunters and anglers have contributed more than \$21 billion for conservation through these fees and taxes as well as through private contributions of time, labor and money; and

Whereas, the resource conservation programs supported and financed by Illinois hunters and anglers have benefited hundreds of wildlife species including deer, wild turkeys, otters, bald eagles and songbirds for the people of Illinois to enjoy;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 26, 1998, as **HUNTING AND FISHING DAY** in Illinois.

Issued by the Governor September 4, 1998.

Filed by the Secretary of State September 9, 1998.

98-506

ILLINOIS STATE GREAT CATFISH COOKOFF AND MURPHYSBORO BARBECUE CHAMPIONSHIP DAY

Whereas, the Great Catfish Cookoff is being held in conjunction with the Illinois State Murphysboro Barbecue Championship; and

Whereas, the Great Catfish Cookoff is the largest and most distinguished catfish Cookoff in the State of Illinois with catfish cooking teams competing from 10-15 different states each year; and

Whereas, the Great Catfish Cookoff honors its gold and platinum sponsors and the ambassadors for the Murphysboro Barbecue Championship;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 24, 1998, as the **ILLINOIS STATE GREAT CATFISH COOKOFF AND MURPHYSBORO BARBECUE CHAMPIONSHIP DAY** in Illinois.

Issued by the Governor September 4, 1998.

Filed by the Secretary of State September 9, 1998.

98-507

PAYROLL WEEK

Whereas, the American Payroll Association in Illinois plays a key roll in maintaining this state's economic health; and

Whereas, the payroll departments collectively spend more than \$15 billion annually; and

Whereas, payroll professionals play an increasingly important roll in ensuring the economic security of American families by helping to identify noncustodial parents and making sure they comply with their child support mandates; and

Whereas, payroll professionals meet regularly with federal and state tax

officials to discuss both improving compliance with government procedures and how compliance can be achieved at less cost to both government and business; and

Whereas, taxes that are withheld support important civic projects, including roads, schools and parks;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 14-18, 1998, as **PAYROLL WEEK** in Illinois.

Issued by the Governor September 4, 1998.

Filed by the Secretary of State September 9, 1998.

98-508

Y-ME BREAST CANCER DAY

Whereas, founded in 1978, Y-ME National Breast Cancer Organization is the largest independent organization in the country serving women with breast cancer and their families and friends; and

Whereas, Y-ME promotes methods and the importance of early detection for improving the survival rate of women with breast cancer; and

Whereas, Y-ME volunteers lead 30 "Open Door" education and support meetings each month throughout Illinois; and

Whereas, Y-ME is committed to addressing needs not currently met by traditional health care providers; and

Whereas, Y-ME National Breast Cancer Organization will hold its 18th Annual Luncheon/Fashion Show on October 24, 1998;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 24, 1998, as **Y-ME BREAST CANCER DAY** in Illinois.

Issued by the Governor September 4, 1998.

Filed by the Secretary of State September 9, 1998.

98-509

AMERICAN REFUGEE COMMITTEE DAY

Whereas, the American Refugee Committee (ARC) was formed in 1978 to help resettle refugees fleeing their homelands in Indochina; and

Whereas, in 1979, the ARC began sending teams of medical specialists to refugee camps abroad to provide primary health care and training for Homing refugees; and

Whereas, the ARC has met the escalation of the worldwide refugee crisis by expanding its efforts to Africa and Europe; and

Whereas, the ARC currently provides primary health care, training and related assistance to more than one million refugees in eight countries; and

Whereas, many Illinois volunteers have served abroad with the ARC and Illinois businesses have supported ARC programs;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 15, 1998, as **AMERICAN REFUGEE COMMITTEE DAY** in Illinois.

Issued by the Governor September 8, 1998.

Filed by the Secretary of State September 9, 1998.

98-510

BLINDNESS REHABILITATION WEEK

Whereas, more than 60,000 United States citizens become blind each year;

and

Whereas, rehabilitation teaching is the oldest discipline in the field of blindness rehabilitation; and

Whereas, rehabilitation teachers are usually the first rehabilitation practitioners to provide counseling and training in braille, word processing, house keeping and home maintenance; and

Whereas, there are a limited number of professionally trained rehabilitation teachers available to provide the blind citizens of Illinois with the necessary skills and knowledge to lead productive and fulfilling lives;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 14-20, 1998, as *BLINDNESS REHABILITATION WEEK* in Illinois.

Issued by the Governor September 8, 1998.

Filed by the Secretary of State September 9, 1998.

98-511

GERMAN AMERICAN DAYS

Whereas, the first German immigrants arrived in the United States in 1683;

and Whereas, today more than 60 million Americans trace at least a part of their ancestry to Germany; and

Whereas, the German American community accounts for the largest ethnic group in Illinois; and

Whereas, the United German Societies of Greater Chicago sponsor a number of festivals to celebrate German American heritage; and

Whereas, it is an honor to recognize the German American community for its many contributions to the civic and social life of Illinois;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 11-13, 1998, as *GERMAN AMERICAN DAYS* in Illinois.

Issued by the Governor September 8, 1998.

Filed by the Secretary of State September 9, 1998.

98-512

SLOVENIAN WOMAN'S UNION OF AMERICA BRANCH #20 DAY

Whereas, Slovenian Woman's Union of America announces that the 70th anniversary celebration of Branch #20 - Joliet, Illinois, will be observed on Sunday, October, 4, 1998, in the City of Joliet; and

Whereas, this year's distinguished guest will be Dr. Dimitrij Rupel, Ambassador to the United States from the Republic of Slovenia; and

Whereas, the Branch #20 of the Slovenian Woman's Union was formed on June 11, 1928, by 14 chapter members; and

Whereas, its inception membership has grown to over 600 women, men, and children; and

Whereas, the purpose of the Slovenian Woman's Union of America is to patronize American and Slovenian ideals, encourage participation in civic affairs and promote and preserve the rich Slovenian heritage and culture; and

Whereas, thousands of Slovenian Americans have been living in the State of Illinois for generations and they have contributed much to the progress and development of the state;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim

October 4, 1998, as *SLOVENIAN WOMAN'S UNION OF AMERICA BRANCH #20 DAY* in Illinois.

Issued by the Governor September 8, 1998.

Filed by the Secretary of State September 9, 1998.

Rules acted upon during the period from August 7 (Issue 32, 1998) through October 9, 1998 (Issue 41) are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 4401 published in Issue 40 will be listed as 50-4401-40. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnatate@egate.sos.state.il.us (Internet address).

PROPOSED

8-20-36 77-690-34
 8-20-36 77-692-32
 8-40-36 77-830-34
 8-55-36 77-2200-32
 8-75-36 80-305-36
 8-80-36 80-310-38
 8-85-36 80-1650-35
 8-100-36 83-415-37
 8-105-36 83-421-32
 8-110-36 83-505-37
 8-115-36 86-130-33,35
 8-125-38 86-150-33
 8-1400-34 89-104-39
 11-719-32 89-112-37
 17-525-34 89-113-36,37
 17-590-37 89-114-36,37
 17-1050-34 89-118-35
 20-106-37 89-120-38
 20-455-37 89-125-35
 20-530-37 89-148-33
 20-1780-32 89-160-39
 23-2775-38 89-240-36
 23-3040-39 89-328-39
 32-370-33 89-553-36
 32-401-38 89-562-38
 35-106-36 89-567-36
 41-100-36 89-590-36
 44-610-33 89-617-36
 44-650-23 89-679-36
 50-201-32 89-686-33
 50-301-33 89-750-39
 50-2500-39 89-751-39
 50-2505-39 89-755-39
 50-2510-39 89-760R-39
 50-2515-39 89-765-39
 50-2520-39 89-770R-39
 50-2525-39 89-775R-39
 59-104-33 89-780R-39
 59-115-33 89-785R-39
 59-132-33 89-790R-39
 68-590-36 89-795-39
 68-610-36 89-800R-39
 77-215-35 89-805-39
 77-230-36 89-810R-39

ADOPTED

2-651-35
 11-204-32
 14-485-35
 17-110-33
 17-510-33
 17-530-33
 17-550-33
 17-570-33
 17-590-36
 17-680-33
 17-690-33
 17-715-33
 17-730-33
 17-740-33
 17-880-33
 17-2010-33
 17-3025-33
 20-1230-38
 20-1235-38
 23-650-38
 32-330-32
 35-367-34
 35-368-34
 38-300-33
 38-356-33
 38-392-33
 38-900-33
 44-530R-37
 44-535R-37
 44-540R-37
 44-1150-35

EMERGENCY

23-2775-38
 44-525R-33
 44-530R-33
 44-535R-33
 44-540R-33
 86-511-34
 89-104-39
 89-112-37
 89-113-37
 89-114-37
 89-118-35
 89-120-38
 89-125-35
 89-160-39
 89-679-36

PEREMPTORY

80-310-34

89-117-37
 89-160-33
 89-120-37
 89-121-37
 89-140-37
 89-148-37
 89-153-37
 92-107-39
 92-171-39
 92-172-39
 92-173-39
 92-177-39
 92-178-39
 92-179-39
 92-180-39
 92-443-34
 92-445-37
 92-1710-37
 92-1720R-37
 92-1730R-37
 92-1740R-37

ILLINOIS REGISTER
ADMINISTRATIVE CODE ORDER FORM

PLEASE USE THIS FORM FOR ALL ORDERS OR TO NOTIFY US OF A CHANGE OF ADDRESS. ALL ORDERS MUST BE PAID IN ADVANCE BY CHECK, MONEY ORDER, VISA, MASTER CARD OR DISCOVER CARD. CHECKS AND MONEY ORDERS MUST BE PAYABLE TO THE "SECRETARY OF STATE".

MICROFICHE SETS OF THE ILLINOIS REGISTER @\$200.00 PER SET.

___1977-1978___1979___1980___1981___1982___1983___1984___1985___1986___
___1987___1988___1989___1990___1991___1992___1993___1994___1995___1996

CUMULATIVE INDICES TO THE ILLINOIS REGISTER @\$1.00 EACH.

___1981___1982___1983___1984___1985___1986___1987___1988___1989

SECTIONS AFFECTED INDICES TO THE ILLINOIS REGISTER @\$1.00 EACH.

___1984___1985___1986___1987___1988___1989

CUMULATIVE/SECTIONS AFFECTED INDICES @\$5.00 EACH.

___1990___1991___1992___1993___1994___1995___1996

BACK ISSUES OF THE ILLINOIS REGISTER (CURRENT YEAR ONLY) @\$10.00 EACH.

(VOLUME #)

(ISSUE #)

(ISSUE DATE)

ANNUAL SUBSCRIPTION TO THE ILLINOIS REGISTER @\$290.00 (52 ISSUES)

___NEW___RENEWAL

ANNUAL SUBSCRIPTION TO THE ILLINOIS ADMINISTRATIVE CODE ON CD-ROM; COMPLETELY UPDATED EDITION PUBLISHED QUARTERLY @\$290.00 FOR 4 QUARTERLY EDITIONS

TOTAL AMOUNT OF ORDER: \$_____

___CHECK___VISA___MC___DISCOVER CARD#:_____

EXPIRATION DATE:_____SIGNATURE:_____

(IF CHANGE OF ADDRESS, PLEASE LIST BOTH THE OLD AND NEW ADDRESS:_____

(NAME, PLEASE TYPE OR PRINT)

(ADDRESS)

(CITY, STATE, ZIP CODE AND TELEPHONE #)

MAIL TO:

OR FAX: (217) 854-0308

GEORGE H. RYAN
SECRETARY OF STATE
INDEX DEPARTMENT
111 E. MONROE
SPRINGFIELD, IL 62756

